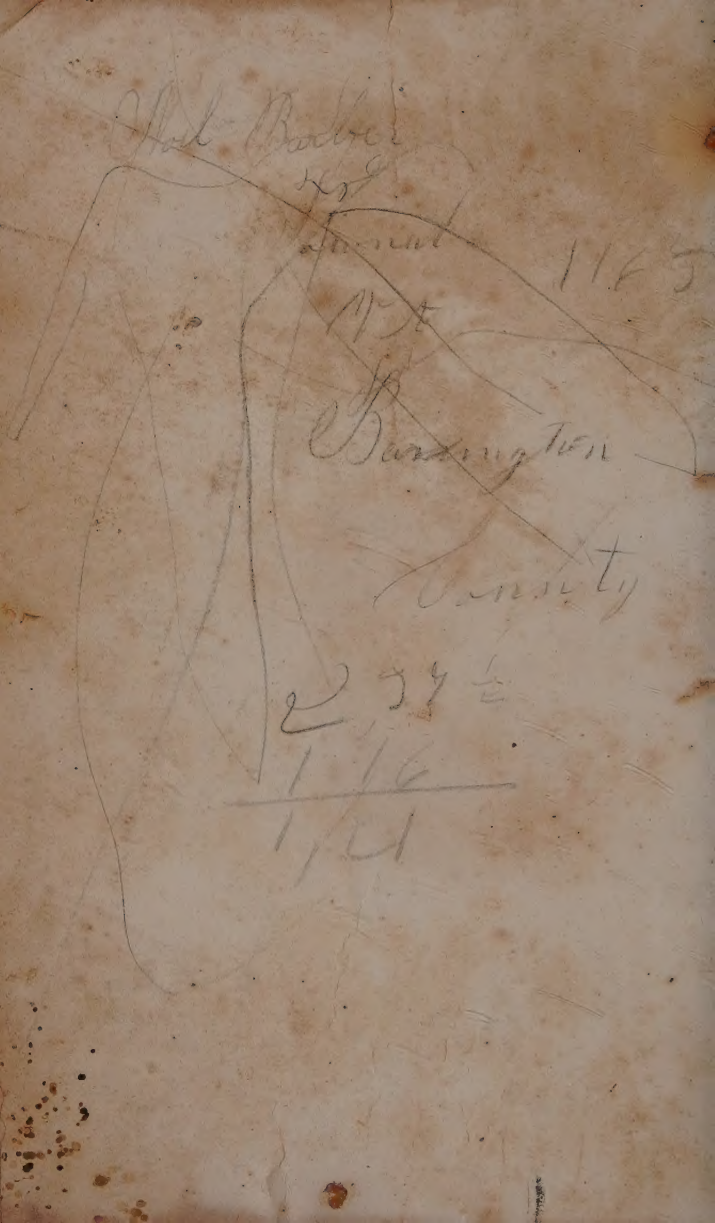

Noel Barbe
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of

THE PRINCIPLES

OF

CIVIL GOVERNMENT

FAMILIARLY ILLUSTRATED;

INCLUDING

A COMPREHENSIVE VIEW

OF THE

GOVERNMENT OF THE STATE OF VERMONT,

AND

AN ABSTRACT OF THE LAWS,

SHOWING THE RIGHTS, DUTIES, AND RESPONSIBILITIES OF CITIZENS IN THE CIVIL AND DOMESTIC RELATIONS; WITH

AN OUTLINE OF THE

GOVERNMENT OF THE UNITED STATES:

ADAPTED TO THE CAPACITIES OF CHILDREN AND YOUTH,

AND

DESIGNED FOR THE USE OF FAMILIES AND SCHOOLS.

BY ANDREW W. YOUNG,
Author of "Science of Government."

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PREFACE.

NOTWITHSTANDING the number and variety of class books that have sought and gained admittance into our public schools, the study of our civil polity has not yet been encumbered with treatises on this most important science While much has been done, during the last quarter of a century, by voluntary effort as well as by legislation, to diffuse the benefits of a practical education, it is remarkable that the science of government has hitherto received so little attention.

To secure the blessings of liberty to themselves and their posterity, was the leading object of the people of the United States in ordaining and establishing the constitution. That this constitution is fully adequate to the objects of its formation, has been satisfactorily proved by the experience of more than half a century. Whether the blessings of civil and religious freedom which our system of government is so happily adapted to secure shall be enjoyed by *our* posterity, will depend essentially upon what shall be done to qualify the rising generation of American youth for the duties and responsibilities of freemen.

The destinies of this great and growing republic will, in a few years, be committed to those who are now receiving instruction in our public schools. How important, then, that the course of education pursued in these institutions, should embrace the study of the principles of civil government, especially of that government in which our youth will so soon be called to take a part! Our government is in theory a government of *the people ;* to be such *in fact,* the people must know *how* to govern. The right of self-government can be valuable only as it is exercised *intelligently.* Questions of public policy involving constitutional principles, and even liberty itself, are not unfrequently decided by popular suffrage ; and without a thorough knowledge of our constitutional jurisprudence, the very object

of free government may be defeated, and the people become their own oppressors.

A fundamental principle of our government is *equality*. At the ballot-box, the constitution recognizes no distinction or preference. It secures to all classes of our citizens—the humblest and the most exalted—the poor and the rich—an equal measure of political power. Hence all should be equally capable of exercising this power with wisdom and effect.

The study of political science should be commenced early. Children should *grow up* in the knowledge of our republican institutions. The provisions of our state and national constitutions should be to them as familiar as the spelling-book; yet thousands of our young men reach their majority, who have never given these constitutions so much as a single reading; and who assume the high prerogatives of freemen without knowing what the vast responsibilities of a freeman are! Can our liberties be safe in such hands? Can parents reconcile it with an enlightened sense of justice to their country to turn their sons upon the community thus unprepared to discharge their political duties?

If ever the great body of the people are to be qualified for the business of self-government, our common schools must be relied on as the principal means. In these institutions, probably nine-tenths of our citizens receive all their education. A science, therefore, the knowledge of which is so essential to our political prosperity, should be taught in every common school.

Influenced by these considerations, the author prepared his "Introduction to the Science of Government." The favor with which that work was received, afforded gratifying evidence that the importance of this science began to be appreciated. The object of the work was declared to be, "to supply a deficiency in the course of education." The belief was entertained and expressed, that it would be found well adapted to the condition of our common schools; and that the several subjects of which it treats were made "intelligible to those who were of suitable age and capacity to be benefited by the study of this science."

It has, however, been ascertained by experience, that youth are capable of comprehending the principles of civil government at a much earlier age than that to which that work is adapted. Besides, being intended for general circulation, it treats only of general principles which are common to all the states, and of "the constitutional and civil jurisprudence of the

United States." But as the people are governed chiefly by state institutions and laws, it was deemed important that an elementary treatise of this kind embrace the details of the government, and the principal laws of the state, by whose citizens the work is to be studied.

A new work was therefore written, adapted not only to younger minds, but to the government of the state of New York. The measure of popular favor which that work has received—having already passed through fifteen editions—affords reasonable assurance of its universal introduction into the common schools of the state.

The appreciation of the author's labors in this department of education in his own state, has encouraged him to extend his labors to other states. In the hope that the people of Vermont will regard with equal favor this effort to diffuse among those upon whom its government will soon devolve, a knowledge of this most useful science, this work has been prepared. It contains a familiar illustration of the principles of civil government as applied to the governments of the states, with a particular description of the government of the state of Vermont; and an abstract of the laws defining the rights and prescribing the duties of citizens in the civil and domestic relations. It contains also a general view of the government of the United States, with a brief exposition of the principal provisions of the constitution.

The author has endeavored so to simplify his language as to meet the capacities of children and youth; and many subjects he has explained by practical illustrations. To some, these illustrations may appear superfluous, as their omission, it may be supposed, might be supplied by the teachers. But it was considered that the study of political science is new, not only to scholars in general, but to many teachers: hence it was deemed inexpedient to omit what is regarded as necessary for the former, and what, it was apprehended, too many of the latter would fail to supply. Those who have been engaged in the instruction of youth, are aware that writers, in endeavoring to accommodate themselves to juvenile minds, seldom aim too low. A material defect of many valuable works is, that their authors have not *descended* to the comprehension of those for whose benefit their works are designed.

This work is not intended to be used merely as a class-book for youth. It may be read with no less interest and profit by the mass of adult citizens, and will be found highly convenient

and useful in almost every family library as a book of reference.

The study of the work by females also is recommended. Their position in society, and the part they take in the training of youth, in the family and in the school, give them a powerful influence in forming the character and settling the destiny of the nation. Moved by that patriotic feeling which a thorough knowledge of our republican institutions naturally inspires, they would more effectively aid in promoting the diffusion of this knowledge, so essential to the health and vigor of the body politic, and to the security of public liberty.

That this work is the best that could be written, the writer does not presume; that it contains some slight inaccuracies, is probable. If it shall be found to contain any material errors, they will be corrected. In the hope that it will in some good degree answer the purpose of its compilation, it is respectfully presented to the public.

Warsaw, N. Y., October, 1848.

TO TEACHERS.

THE occupation of an instructer of youth is a most honorable and responsible one. The persons who are in a few years to become our legislators, judges, and governors, are now in the process of training in our public schools. This consideration should impress teachers with a deep sense of the magnitude of their trust, since the future welfare of the nation depends essentially upon the ability and fidelity with which this trust shall be discharged.

From this work, if it shall meet a favorable reception, not a few of our future statesmen will receive their first lessons in the science of civil government. The successful study of the work, however, will depend much upon the manner in which it shall be used by teachers, and the interest which they shall feel in the subject. A teacher who desires to be in the highest degree useful in his profession, will cheerfully undertake the instruction of a class in civil government: and he may make the exercise interesting and profitable both to himself and his pupils.

It is not sufficient that the scholar be required to answer the questions appended to the chapters The utility of printed questions in class-books, is doubted by many of the best teachers and other persons of sound judgment. A few, however, have been annexed to each chapter, for the assistance of the more inexperienced teachers. It will generally be found necessary for the teacher to add questions of his own, which he may do at pleasure. Pupils should be encouraged to give answers in their own words. Some questions are inserted which

refer especially to the government of this state; the answers to which will generally be found either in the Supplementary Notes, or in the Constitution. And occasionally a question has been added, to which the book furnishes no answer.

Although pains have been taken to render the several subjects plain and intelligible to young minds, some of them will need farther explanation from teachers. This, however, will be to the intelligent teacher an agreeable and profitable exercise, rather than a task; while it can not fail to impart to the study an interest which the scholar never finds in mere formal recitations.

Some of the chapters will be found too long for a single lesson. Such portions only should be assigned to the class as may be learned well. Each lesson, provided it can be made intelligible, should be understood by the pupil before he is permitted to proceed to another. He will take little interest in a study, and consequently make little real proficiency, when he is allowed to pass from lesson to lesson without an understanding of the subjects they contain. Hence, if teachers should assign to their classes lessons of moderate length, and should devote a few moments at each recitation to a practical improvement of the lesson by appropriate remarks and illustrations, the study would be attended by the most beneficial results.

For the purpose of reference, the Constitution of the United States and the Constitution of Vermont, have been given entire. These are also to be regularly studied by the scholars especially by the more advanced classes, after they shall have become somewhat familiar with other portions of the work.

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CIVIL GOVERNMENT.

CHAPTER I.

Of Civil Government and Laws.

§ 1. GOVERNMENT, in a general sense, signifies direction, or regulation. When applied to mankind, it means the exercise of authority by one or more persons over others, in controlling or regulating their conduct. A parent gives directions to his children for the regulation of their behavior. He commands what they are to do, and forbids what they are not to do. In giving and enforcing his commands and prohibitions, he is said to govern his family. So the government of a teacher consists in causing his scholars to observe the rules he has prescribed for their conduct.

§ 2. But the kind of government which is to be described in the following treatise, is called *civil government;* being that which regulates the actions of persons, as members of *civil society.* Any number of persons associated in any manner, or for any purpose, is called a society. But none of those associations which are usually called societies, are what is understood by civil society.

§ 3. The term civil society, is applied to the people of a country united for the purpose of government, under written rules and regulations, and who, thus united, constitute a state or nation. Hence it does not properly apply to the people of savage or uncivilized countries, who, though they observe certain customs, have no fixed system of written rules for their government.

§ 4. Civil society may be said to exist only where the people are in a *civilized* state, or state of social improvement. By civilization and social improvement is meant, refinement of manners and progress in knowledge. Wherever the people enjoy the benefits of learning and the means of improving their social condition, or of making themselves

more comfortable and happy, they are called civilized; and the government of such country according to established written rules, is called *civil government.*

§ 5. The rules by which the conduct of men in civil society is to be regulated, are called *laws;* as the commands of the parent or householder are the laws of the family, or as the rules of the teacher are the laws of the school. A *law* is therefore, a rule prescribing what men are to do, or forbidding what they are not to do. A law implies two things: the right and authority of those who govern to make the law, and the duty of the governed to obey the law.

§ 6. To give force to a law, it must have a penalty. *Penalty* is the pain or suffering to be inflicted upon a person for breaking a law. For stealing, a man is imprisoned or fined; and for murder, he is hanged. Hence, the fine or imprisonment, and the hanging, are penalties. If no penalties were annexed to laws, men could not be compelled to obey them; bad men would commit the worst crimes without fear; there would be no safety to our lives or property; and general disorder would prevail in society.

§ 7. The word government, in a civil or political sense, is not, however, always used to convey precisely the same meaning. When used to express the nature or kind of government, as republican government, or monarchical government, the word means, *the system or form of fundamental rules by which the people of a state or nation are governed.* It means also, the exercise of the power or authority to govern; in other words, *making and executing the laws of the state.* And again, the *persons* or *officers* who make and administer the laws, are called the "government."

EXERCISES.

§ 1. What is government? Illustrate the meaning by example. Give an example of your own.

§ 2. Define the term, civil government. What is a society?

§ 3. To what does the term civil society apply? What is a state? A nation? Name a few countries that are uncivilized.

§ 4. What is meant by civilization and social improvement? Is this a civilized country? Mention a few others.

§ 5. What is a law? What does it imply?

§ 6. What is penalty? Why is it necessary?

§ 7. Is the word government always used in precisely the same sense? In what different senses is it used?

CHAPTER II.

Of Rights; and the Nature and Necessity of Laws.

§ 1. THE grand object of civil government is to secure to the members of a community the free enjoyment of their rights. A *right* is the just claim or lawful title which we have to any thing. Hence we say, a person has a right to what he has earned by his labor, or bought with his money. Having thus acquired it, it is lawfully and justly his own, and no other person has a right to it.

§ 2. We have a right also *to do* things. We have a right to go where we please, and to act as we please, if by so doing we do not trespass upon the rights of others. For all men in civil society have the same natural rights, and no one has a right to disturb others in the enjoyment of their rights.

§ 3. The being free to enjoy what belongs to us, or to do as we please, is called *liberty*. The words, right and liberty, however, have not the same meaning. We may have a right to a thing when we have not the liberty of enjoying or of using it. John has a pencil which is justly his own; but James takes it from him by force. John's liberty to enjoy the use of his pencil is lost, but his right to it remains. And James has no right to the pencil, though he enjoys the use of it.

§ 4. All laws ought to be so made as to secure to men the liberty to enjoy and exercise their natural rights. *Natural rights* are those to which we are entitled by nature, rights with which we are born. Every person is born with a right to live, and freely to enjoy the fruits of his labor and whatsoever is justly his own. Hence, liberty itself is a na-

tural right; that is, it is ours by nature, or by birth, and cannot be rightfully taken from us: wherefore it is also called *inalienable*. But we may forfeit our natural rights by crime. By stealing, a man loses his right to liberty for a time, and is justly imprisoned. If he commits murder, he forfeits his right to life, and lawfully suffers death.

§ 5. We sometimes hear of *civil rights* and *civil liberty*. Wherein do civil rights and liberty differ from those which are called natural? Rights and liberty may be both natural and civil. Speaking of them as being ours by nature, or by birth, we call them natural; when they are spoken of as being secured to us by civil government and laws, they are called civil. John's right to his pencil, being secured to him by the laws of civil society, is a *civil* right. It is at the same time a *natural* right, because, by the law of nature, he is born with a right to the free use of his property.

§ 6. The *law of nature* is so called, because it is a perfect rule of conduct for all moral and social beings—a rule which is right in itself, right in the nature of things, and which would be right and ought to be obeyed, if no other law, nor a positive command had ever been given. It is right in itself that all men should have the liberty of enjoying the use of what is their own; and it would be right that we should give to every man his due, if we had never been commanded to do so.

§ 7. The law of nature is the rule of conduct which we are bound to observe towards our Maker and our fellow-men, by reason of our *natural relations* to them. Manking being dependent upon their Creator, they owe Him duties which they ought to perform, though he had never positively enjoined these duties. To serve our Creator is a duty which arises out of the relation we sustain to Him.

§ 8. So the relation between parent and child renders it fit and proper that children obey their parents, on whom they are dependent for protection and support. And from our relations to our fellow-men, on whom also we are in a measure dependent, and who have the same rights as ourselves; it is our duty to promote their happiness as well as our own, by doing to them as we would that they should do to us.

This is required by the law of nature, which is the will of the Creator.

§ 9. But if the law of nature is the rule by which mankind ought to regulate their conduct, it may be asked, Of what use are written laws? Mankind are not capable of discovering, in all cases, what the law of nature requires. It has therefore pleased Divine Providence to reveal his will to mankind, to instruct them in their duties to himself and to each other. This will is revealed in the Holy Scriptures, and is called the *law of revelation*, or the *Divine law*.

§ 10. But although men have the Divine law for their guide, human laws also are necessary. God has commanded men to do right, and to deal justly with each other; but men do not always agree as to what is right: human laws are therefore necessary to say what shall be considered just between man and man. And these laws must be written, that it may always be known what they are.

§ 11. Again, it may be asked, What must be done when a human law does not agree with a Divine law? Must such law be obeyed? We may not disobey a law simply because it does not require what is strictly just between men. A law may be very imperfect, as many human laws are, and yet we ought to obey it, and may do so without breaking the Divine law. But a law clearly contrary to the command of God, we are not bound to observe. It may sometimes be difficult to determine whether human laws and the Divine law agree. Hence the importance of having wise and good law-makers, who will make just and righteous laws.

EXERCISES.

§ 1. What is the object of civil government? What is a right? How does a person acquire a right to what he possesses? Mention some other ways of acquiring a right to property. Is there no case in which others may have a just claim upon us for a portion of what we have lawfully obtained?

§ 2. How far have we a right to act as we please?

§ 3. What is liberty? Explain the difference between right and liberty.

§ 4. What are natural rights? Is liberty a natural right? Why is a right called inalienable? Does the imprisonment of a man for crime deprive him of a natural right?

§ 5. What is the difference between natural and civil rights?

§ 6. What is meant by the law of nature?

§ 7. What course of conduct towards our Creator does the law of nature prescribe? From what do these duties arise?

§ 8. Why ought children to obey and honor their parents? What duties do we owe our fellow-men? By what law are these several duties enjoined?

§ 9. Where do we find the law of revelation? Is this law infallibly right? Does it in all cases agree with the law of nature?

§ 10. Why are human laws necessary? Why should they be written?

§ 11. Which has superior force, the Divine law, or a human law? Must every bad law be disobeyed? Can you tell what would be an unjust law, and yet be binding?

CHAPTER III.

How Power is exercised in different Governments.

§ 1. The people of every civilized country live under government and laws of some kind; but the modes and forms of government in different countries are very different from each other. What distinguishes one form of government from another is, that the power to govern is in different hands, and is exercised in a different manner in some governments from what it is in others.

§ 2. In some countries the power to govern is in one person, called a king, or emperor, who makes laws for the people, who, subject to his will which is their law, are hence called his *subjects*. A government of this kind is called a *monarchy*, which means a government by one man, who is called *monarch*. When such ruler exercises authority over his subjects in a cruel manner, he is called a *despot*, or *tyrant*, and his government is called a despotism, or tyranny.

Originally the words despot and tyrant meant simply a single ruler. But such is the sense at present conveyed by these words, that any government so administered as to oppress the people, is said to be despotic or tyrannical.

§ 3. Another form of government is a *democracy*, which means a government by the people. The word democracy is from the Greek words, *demos*, the people, and *kratos*, power, and signifies the people exercising the power to govern. In a government purely democratic, the great body of freemen meet in one assembly to make the laws and to transact the public business. In ancient Greece and Rome there were governments of this kind. These can exist only in small territories. All the citizens of a large community could not meet in a single assembly and do business.

§ 4. It will be seen that a monarchy and a democracy are directly opposite to each other. In the former, the power to govern is in the hands of *one* man; in the latter it is exercised by *the people*. In the one, the people are governed by another; in the other, they govern themselves. The former, in which the will of one man is law, is called an *absolute* or *arbitrary* government; the latter, in which the people make their own laws, is called a *free* government.

§ 5. There is a form of government which partakes of the nature of both a monarchical and a free government, and is called a *mixed* government. It is also called a *limited monarchy*, because the monarch is himself restrained by laws, and cannot make laws alone. The government of Great Britain is one of this description. The chief magistrate, the king, gets his power as kings usually do, by right of birth; that is, he inherits it from his ancestors as a son becomes heir to the property of his father, at whose death his property comes to the child by right of birth. The eldest son is heir to the crown. If there is no son, it falls to some near relation.

§ 6. The laws in Great Britain are framed by parliament, and submitted to the king for his approval. If he approves them, they become laws, otherwise they do not. *Parliament* is composed of two legislative assemblies, the house of *lords*, and the house of *commons*. The lords are men of high rank, who get their office by birth, or from the king.

They are also called *nobles*. The house of commons is composed of men elected by the people. These three branches of the government, the king, the house of lords, and the house of commons, must all agree to a measure before it is a law. The king, however, seldom withholds his assent from laws passed by both houses of parliament.

§ 7. Governments called *aristocracies* have also existed; but no government properly called an aristocracy is believed to exist at the present time. The word is applied to a government which is in the hands of a few persons of rank and wealth. The aristocratic principle however, is preserved in the British house of lords.

§ 8. But the form of government which prevails in this country is different from all those which have been described. It is a republican government. A *republic* is a government in which the people enjoy common rights and privileges. Hence the name of *commonwealth* is sometimes applied to a republic; as a thing is said to be *common* when it is enjoyed by persons in general. Sometimes this name is given to a state of this Union; as, "the commonwealth of Massachusetts;" "the commonwealth of Pennsylvania." Hence also the word *community*, which signifies people living under the same laws and enjoying common privileges. Every state in the Union is a republic.

§ 9. In a republic, the political power is with the people; therefore the government is *free*. Our government is sometimes called a democracy; and perhaps the words republic and democracy had formerly the same meaning. But our government is materially different from such a democracy as has been described. In a republic like ours, the people do not all assemble in a body to make laws as in a pure democracy. The laws are made by a small number of men called representatives, who are chosen by the people for that purpose.

§ 10. The government of this country is therefore a *representative government*, or a *representative republic*. A *representative* is a person chosen or employed by others to make known their wishes and to transact business for them. A representative is therefore an agent. The word *agent*, however, more frequently denotes a person intrusted with the

business of private individuals; by representative is generally understood one who is chosen to assist in enacting the laws.

§ 11. Although most of the powers of government in this country are exercised by the agents and representatives of the people, instead of being exercised by the great body of the people in person, as in a simple democracy, both governments are equally *free*, because, in both, all power, though differently exercised, originally resides in and comes from the people, and both are such as the people have chosen for themselves.

EXERCISES.

§ 1. By what are the governments of different countries distinguished from each other?

§ 2. Describe the nature of a monarchy. Of despotism, or tyranny.

§ 3. What is a democracy? Define the word democracy. Would a democracy be practicable in this country? Why not?

§ 4. Why is a monarchy called an absolute or arbitrary government? Why is democracy called a free government?

§ 5. What is the government of Great Britain called?

§ 6. By whom are the laws in that country enacted? How is the parliament constituted?

§ 7. Describe an aristocracy.

§ 8. What is the government of this country? Define republic—commonwealth—community.

§ 9. In what does our country differ from a simple democracy?

§ 10. Define representative.

§ 11. In what respect are our republic and a democracy alike? Mention some other governments that are republican?

CHAPTER IV.

Of the Nature of a Constitution.

§ 1. THE form of government in the United States is expressed in a written instrument, called a *constitution*. A *constitution* is a form of rules by which the members of a society agree to be governed. Every society or association, commonly so called, has a constitution. The persons forming the association, draft a set of rules setting forth its objects, and declaring what officers it shall have, the powers and duties of each, and the manner of conducting its operations. So the rules adopted by the members of the civil society, as a state or nation, are called the constitution. They are in the nature of articles of agreement, by which the people mutually agree to be governed.

§ 2. A constitution is a kind of law; not such a law, however, as are the laws made by the people's representatives. It is a law drafted by men chosen by the people for that purpose, and adopted by the people themselves. It describes the nature and form of the government, declares what officers are to be elected, and prescribes their respective powers and duties. It is sometimes called the *fundamental law*, being the foundation of all other laws, which must agree with this fundamental law. Hence it is also called a *frame* of government, and may be compared to the frame of a building. As the frame fixes the form and dimensions of the building, and as every piece of timber or plank required to finish it must be fitted to the frame, so every law that is made, and every other act performed in the administration of the government, must conform to the constitution.

§ 3. The constitution is also called the *political law*, because it is the law of the political body, or body politic. By the term *body politic* is meant the people of the state incorporated into one body for purposes of government. Being a law ordained by act of the people in their political capacity, a constitution is properly the *political law*, as distinguished from the laws made from time to time by the legislature, which are called, by way of distinction, the *civil* or

municipal laws. Hence it appears, that though a constitution is a law, not every law is a constitution.

§ 4. It appears also, that the first and highest act of a free people, is the choice of a constitution or form of government for themselves. Hence, in no country do the people enjoy greater political privileges than in the United States. In most governments there is either no constitution at all, or none that is established by the free choice of the people. The people of Great Britain enjoy a good degree of civil liberty, and we hear of the British constitution; but it is not a written instrument like ours, adopted by the popular vote. Not having such a constitution to restrain their rulers, the people are liable to suffer, and often do suffer, from the enactment of unjust laws.

§ 5. The object of a constitution is two-fold. In the first place, it is intended to protect the people against the evils of a bad use of power by those who are intrusted with the administration of the government. It prescribes the powers and duties of the principal public officers, so that it may be known if they transcend their powers; and it guaranties to the people the right of displacing, at stated periods, those who abuse their power, and of electing others in their stead.

§ 6. But while a constitution is designed to restrict the powers of those who administer the government, it is deemed equally necessary for the security of public liberty to place some restraints upon the people. The framers of the constitution, believing an unrestrained democracy to be no better than a monarchy, have provided safeguards against the abuse of liberty as well as against the abuse of power; and the people, by adopting the constitution, have consented to these restraints. Yet, as all political power is inherent in the people, they may alter their constitution, increasing or lessening these restraints at pleasure; but they are bound by its provisions, whatever they may be: nor can they alter it, except in such manner as the constitution itself prescribes.

EXERCISES.

§ 1. What is a constitution? What is its general nature?
§ 2. By whom is a constitution drawn up and adopted?

What are its general provisions? Why is a constitution called the fundamental law?

§ 3. Why is it called the political law? Define body politic. How is a constitution distinguished from ordinary laws?

§ 4. What important political privilege do the people of the United States enjoy, that is not enjoyed by those of other countries?

§ 5. How does a constitution guard the people against the abuse of power?

§ 6. What other object is a constitution designed to effect? Do the people, thus restrained, enjoy less of civil liberty? What would probably be the condition of a people without some constitutional restraints?

CHAPTER V.

How the present Form of Government was introduced into this Country.

§ 1. THE people of the United States, as is probably known by the youngest reader of this work, have not always lived under their present excellent form of government. For more than one hundred and fifty years after the first settlement of this country, they were subject to the government of Great Britain. In 1776, the American colonies, now states, separated themselves from the parent country, and claimed the right to establish a government for themselves.

§ 2. This country was first settled by the English, who claimed it by right of discovery, they having discovered it in 1497, about five years after Columbus had discovered the West India islands. The first permanent settlement, however, was not made until the year 1607, when a colony of 105 persons settled at Jamestown, in Virginia. A few years afterwards, (1620,) a colony was planted in Plymouth, in Massachusetts. After this the number of colonies rapidly increased to twelve, the last of which, Pennsylvania, was settled in 1681. About fifty years thereafter, (1732,) Geor-

gia was settled, the last of the thirteen which declared themselves free and independent states.

§ 3. During their connection with Great Britain, the government of the colonies was not one of their own choice, but such as the king was pleased to institute for them. Each colony had a separate and distinct government; but the governments in the different colonies were in many particulars alike. The powers of government were generally vested in a governor, a council, and an assembly of representatives chosen by the people. These three branches corresponded to the king, the nobles, and the commons, in the government of Great Britain. Power was therefore divided in those governments in nearly the same manner as it is in the states at present; for there is in every state a governor, a senate, and a representative assembly.

§ 4. There is, however an important difference between those governments and the present. The people of the colonies were not allowed to choose a constitution or form of government for themselves; nor had they the privilege of choosing the officers of the different departments of the government. The governors were appointed either by the king, or by such persons as had authority from the king to appoint them; and they were generally under the control of the king, who kept them in office as long or as short a time as he pleased.

§ 5. The council was composed of a small number of men, also appointed by the king, and subject to his pleasure. This body constituted one branch of the legislature. The judges and magistrates, and other officers, were appointed by the governors, or by the king, or other persons who appointed the governors.

§ 6. Hence it appears that only one branch of the law-making power was chosen by the people, while the other two, the governor and council, were appointed by the king, or were subject to him. And as every measure proposed by the people's representatives required the concurrence of the governor and council, just and necessary laws were often denied the people. Besides, a measure, though thus concurred in, must be sent to England for the approval of the king before it could become a law.

§ 7. In a few of the colonies, however, the people enjoyed greater political privileges. In Massachusetts, Rhode Island and Connecticut, for many years before the revolution, they elected their governors and both houses of the legislature. Yet even in the colonies, no laws might be enacted that were contrary to the laws of England. And the privileges they enjoyed were granted by the king, and might be taken away from them at his pleasure.

§ 8. Not only were the colonists denied the benefits of liberal and just legislation at home; many of the laws enacted by parliament and approved by the king, were highly oppressive. These laws were designed to secure to Great Britain exclusively the benefit of the trade of the colonies. A law was enacted, declaring that no goods should be imported into the colonies but in English vessels. If brought in other vessels, both the goods and the vessels were to be forfeited to the British government.

§ 9. Another law required such articles raised here as England wanted, to be transported to that country, and to other countries belonging to Great Britain. The colonists were permitted to ship to foreign markets such products only as English merchants did not want. They were prohibited from selling abroad any wool, yarn, or woolen manufactured goods. Another law declared that no iron wares of any kind should be manufactured in the plantations.

§ 10. Thus was it attempted even to suppress manufactures in the colonies. In short, it was the policy of the British government to compel the colonists to buy of England all the manufactured, as well as other goods they wanted which they did not themselves produce, and to sell to England the surplus productions of the colonies. For this purpose, heavy duties were laid upon goods imported into the colonies from other countries than Great Britain and her possessions. These duties were taxes levied upon goods brought into the colonies from abroad, and were collected by officers here from persons importing the goods.

§ 11. The nature and effects of these duties will more plainly appear from the following facts:—The colonists traded with the West India islands. Some of these islands belonged to France, some to Spain, others to Great Britain.

Now to prevent the colonists from buying goods at the French and Spanish Islands, parliament enacted a law compelling them to pay high duties on the molasses, sugar, and other articles from these islands. To avoid these taxes, they must obtain such articles from the British islands.

§ 12. Great Britain did not stop here. Not satisfied with these acts of parliament by which English traders had been enabled to enrich themselves, parliament claimed the right to tax the colonies "in all cases whatsoever;" and an act was passed accordingly, laying duties upon all tea, glass, paper, and painters' colors, imported into the colonies; and the money thus collected was put into the British treasury.

§ 13. The colonists remonstrated against these unjust laws. Petitions were sent to the king, and memorials to both houses of parliament, praying that these laws might be repealed, but in vain. At length, the colonists resolving no longer to submit to such laws, and the British government attempting to enforce them, a war between the two countries was the consequence.

§ 14. The war commenced in 1775. On the 4th of July, 1776, the congress declared the colonies to be free and independent states, no longer subject to Great Britain. Congress was a kind of legislative body, composed of a few delegates or representatives from each of the several colonies. A description of this congress will be given in another part of this work; also the declaration of independence with the names of the men who signed it. After a severe struggle of about seven years, the war was ended, and Great Britain acknowledged the independence of the states. This change in our relations with that country, and the establishment of independent governments in the states, is called the *American Revolution.*

§ 15. Since the states declared themselves independent, one after another has changed its government, until all of the original thirteen have adopted new constitutions. During this period, seventeen new states have been admitted into the Union, making the present number thirty.

EXERCISES.

§ 1. To what country were the people of this country formerly subject? What were the states formerly called? Define colony.

§ 2. State briefly the facts concerning the discovery and settlement of the colonies. Which colony was last settled, and when?

§ 3. In what three branches was the law-making power of government formerly vested? Does this division of power still exist in the states?

§ 4. In what important particulars did the colonial governments differ from the present state governments? By whom were the governors appointed?

§ 5. How was the council constituted? By whom were the judges, magistrates, and other officers appointed?

§ 6. What rendered the enactment of just laws so difficult?

§ 7. In which colonies did the people enjoy greater privileges? What were these privileges? Upon whose pleasure did the continuance of these privileges depend?

§ 8, 9, 10. What were the objects and general character of the laws enacted by parliament in respect to the colonies? What are *duties?*

§ 11. Mention facts showing the effect of these duties.

§ 12. What general right did parliament claim? Had it such right? What law was enacted in pursuance of this claim?

§ 13. By what means did the colonists endeavor to get these laws repealed? Define repeal. Who have power to repeal laws?

§ 14. In what year did the war commence? Where was the first battle fought? When was independence declared? By whom? How was this congress constituted? Can you tell more about this congress than is here stated? What is meant by the American Revolution?

§ 15. How many states were there then? How many now? Which were the original thirteen states? Name those which have since been admitted.

CHAPTER VI.

The Manner in which a State Constitution is formed.

§ 1. The manner in which state constitutions are made and adopted, may not be known by all who are just entering upon the study of the science of civil government. To show how this act of political power is performed by the people, will be the object of this chapter.

§ 2. It has been remarked that all the citizens of a large community, unable to meet in a single assembly, choose representatives to make the laws. So a constitution is framed by delegates or representatives chosen by the freemen of the state for that purpose. Delegate and representative are words of similar meaning. Members of representative assemblies, other than legislative bodies, are, however, generally called *delegates*, and the assembly of such delegates is called a *convention*.

§ 3. The number of delegates composing a convention to frame a constitution, is usually the same as the number of representatives in the most numerous branch of the legislature. The number elected in each county is the same as the number of representatives from each county in the representative branch of the legislature, and they are elected in the same manner as members of the legislature and other officers are chosen. In the New England states, representatives are apportioned among the towns instead of counties.

§ 4. A convention to frame or amend a constitution is authorized by a law of the legislature. The necessity of such authority is apparent. Without some law prescribing the manner in which members are to be elected, declaring who shall be entitled to vote at such election, and providing for the punishment of unlawful voting, the utmost irregularity and disorder might prevail. What, for instance, would hinder a man from voting in more places than one? or a citizen of another state or a foreigner from voting? Or how could a person offering to vote be compelled to make oath as to his qualifications, or be punished for false swearing if he should commit such offence?

§ 5. But as it is deemed inexpedient to make great changes in a constitution, or to form a new one, unless desired by a majority of the people of the state, the law authorizing a convention for this purpose, usually provides for submitting to the people the question whether such convention shall be called, which question is to be determined by the voters of the state at some previous election. Ballots of two kinds are prepared, on one of which is written or printed "Convention," and on the other, "No Convention." If, on counting the ballots, the greater number of votes shall have been given for a convention, such convention shall be held.

§ 6. The law also designates a day for the election of delegates in case a convention is to be called, prescribes the manner in which the election is to be conducted, and declares who shall be entitled to vote at such election. The same rules and regulations are usually observed at these elections as at those held for other purposes.

§ 7 The delegates thus elected meet on the day and at the place appointed by law, (usually at the seat of government of the State,) and continue in session until they have agreed upon a form of a constitution, which is then submitted to the people for their adoption at an election on a day designated by the law. If, at such election, a greater number of votes shall be given in favor of the proposed constitution than against it, it becomes the constitution of the state.

§ 8. Constitutions sometimes need amendment. The increase of population, the arising of new interests, and various other causes affecting the condition of the people of a state, may require corresponding changes in the constitution. These alterations, however, are not always of such a character or so great importance as to justify the labor and expense of calling and holding a convention. It is usual, therefore, in framing a constitution, to insert in it an article providing some other mode of amendment. Different constitutions provide different modes. In some states, articles of amendment are proposed by the legislature, and submitted to the people for adoption at a future election. In others, amendments thus proposed by one legislature, are acted upon by the next legislature; and, having been agreed to by two successive

legislatures, such proposed amendments become a part of the constitution.

EXERCISES.

§ 1. What is the subject of the last chapter? By whose act is a constitution adopted?

§ 2. By whom is a state constitution framed? Define *delegate—convention.*

§ 3. By what general rule are the delegates apportioned among the several counties or towns?

§ 4. By what authority does a constitutional convention act? Why is such a law necessary?

§ 5. How is it generally determined whether a convention shall be held?

§ 6. What general provisions does a law authorizing a convention contain?

§ 7. Where do the delegates usually meet? After a constitution has been framed, what is necessary to its ratification?

§ 8. Are all amendments of constitutions made by conventions? What modes of amendment are usually prescribed by constitutions? What mode is prescribed by the constitution of this state?

CHAPTER VII.

Of the Division and Distribution of the Political and Civil Powers.

§ 1. HAVING explained the nature of a constitution, and shown how it is made and adopted, it will be next in order to show what the government of a state under such a constitution is, and how the government is administered. In a representative government like ours, there is necessarily a division of power into political and civil; the former being that which is exercised by the people in their political capacity as a body politic, in adopting their constitution and electing the

officers of government; the latter, that which is exercised by the officers thus elected in administering the government.

§ 2. For purposes of administration, the government of a state is divided into three departments; the legislative, the executive, and the judicial. The legislative department is that by which the laws of the state are made. The legislature is composed of two bodies, the members of which are elected by the people.

§ 3. The executive department consists of a governor, assisted by a number of other officers, some of whom are elected by the people, and others are appointed in some manner prescribed by the constitution and laws. The governor is elected in all the states except Virginia and South Carolina; in these he is chosen by the legislature. It is the business of the governor to see that the laws are executed or carried into effect. He oversees the general business of the state, and recommends to the legislature such matters as he thinks ought to receive their attention. He has also a part in enacting the laws. Sundry other duties devolve upon the governor, which will be noticed in their proper places.

§ 4. The judicial department is that by which justice between citizens is administered, and embraces the several courts of the state. All judges and justices of the peace are judicial officers. It is their business to judge of and apply the laws, in cases brought before them for trial. There are several courts in a state; some of a lower, others of a higher order. The manner in which these courts are constituted is not precisely the same in all the states; but their general powers and the manner of conducting trials are the same.

§ 5. For the convenient exercise of the powers of government, it is evident that there must be also a division of the state into smaller portions of territory. A single body or set of government officers could not regulate all the minute affairs of every neighborhood. Business in which the people of a small community alone are interested, can be done by some local authority. The legislature, therefore, by general laws, authorizes the people in their respective communities to exercise certain powers of government among themselves.

§ 6. But to know what persons are embraced in each

community, it must be described by territorial bounds or lines. Hence every state in the Union is divided into towns and counties. The smallest divisions of territory are those of towns, several of which compose a county. These divisions are the same as exist in England, the country of the early colonists, who, on their settlement here, formed towns and counties in the several colonies.

§ 7. Although the people of the towns exercise certain powers of government in managing their local affairs, they can act only under the authority of the laws of the state. The legislature, by law, declares what powers the people of the towns may exercise, and prescribes the mode of choosing town and county officers, and the power and duties of these officers. The manner in which towns and counties are incorporated, their corporate powers, what officers are elected in them, and the powers and duties of these officers, will be given hereafter. (See Towns and Counties.)

§ 8. There is another reason for the territorial division of a state. The people of a large district of country, as has been observed, cannot meet in a single assembly, but must act by representatives. But in the exercise of their political power, they must act *collectively*, which can be done only in small districts, as towns. In choosing delegates to frame a constitution, and in voting upon the question of adopting the constitution, the people act in town meetings. So also they meet in their respective towns for electing the officers of the town, county and state administrations.

EXERCISES.

§ 1. What is meant by the division of power into political and civil?

§ 2. Into what departments is the government of a state divided? How is the legislature constituted? What is the business of a legislature?

§ 3. Of what does the executive department consist? What are the general duties of a governor?

§ 4. What is the general business of the judicial department? Are there more courts than one in a state? Why is not one sufficient?

§ 5. Why is the division of a state into towns and counties necessary?

§ 6. What are the smallest political divisions of a state? Of what are counties composed?

§ 7. By what authority do the people of the towns and counties act?

§ 8. What other reason is there for thus dividing a state into towns?

CHAPTER VIII.

By whom Political Power is exercised.

§ 1. The first act of political power is, as we have seen, the establishment of a constitution or form of government. The next exercise of power by the people in their political capacity, is the election of officers to administer the government. But before proceeding to show *how* this power of the people in their elections is exercised, it will first be shown *by whom* this act of political power is performed.

§ 2. In speaking of *the people* as exercising the powers of government, we do not mean persons of all classes, and without distinction; but such only as are entitled by the constitution to vote. The duties which both nature and the custom of civilized countries have assigned to females, are such as to render it manifestly improper for them to take an active part in the affairs of government. Nor ought male youth to be permitted to do so, until they shall have had time to become duly informed as to the nature and use of political power, and their judgment shall have become sufficiently mature to exercise such power discreetly. And that they may also act independently, they ought to have attained the age and condition of *freemen*. None, therefore, but free male citizens of the age of twenty-one years, are allowed to vote at elections.

§ 3. That a man may vote understandingly, he ought also to have resided long enough in the state to become acquainted with its government and laws, and with the citizens for

whom he is to vote. Hence the constitution of every state requires every elector to have resided in the state for a specified period of time; which period is not the same in all the states, being either six months, a year, or two years. In most of the states, he must also have resided for some months in the county, and be an actual resident of the town in which he offers to vote.

§ 4. Under the early constitutions of the old states, the right of voting, otherwise called the *right of suffrage*, and *the elective franchise*, was restricted to those who owned property, or paid rent or taxes to a certain amount. In the election of the higher state officers, freeholders only were entitled to vote. A *freeholder* is an owner of real estate, that is, property in lands, which he may hold in his own right and transmit to his heirs.

§ 5. In the constitutions of the newer states, the possession of property has not been made a qualification of an elector; and in the amended constitutions of the old states this restriction upon the elective franchise has been removed, until it has nearly ceased to exist in the United States. The only exception, it is believed, is in the state of North Carolina, where, to be entitled to vote for senators, a man must own a freehold of fifty acres of land. The right of suffrage has also been extended in other respects until it has become nearly universal, being enjoyed by every independent white male citizen in almost every state in the Union.

§ 6. All *male citizens*, as the term is here used, does not mean every *man* twenty-one years of age. Foreigners, or *aliens*, are not in law called citizens, nor entitled to the political privileges enjoyed by persons born in this country. Their knowledge of our government is deemed to be too limited to qualify them immediately for the proper exercise of political power; nor is it presumed that they will feel a sufficient interest in our government until they shall have become permanently settled in this country. A way is provided by which, after a residence here for a term of years, they may be admitted to all the privileges of native citizens. Their becoming thus invested with the rights of natural born citizens, is called being *naturalized*. (See Naturalization.)

§ 7. Also persons convicted of certain infamous crimes are

denied the privilege of voting thereafter at elections, unless they have been pardoned before the expiration of the term for which they were sentenced to be imprisoned, or unless the disqualification be removed in some other way prescribed by law.

§ 8. It will be seen by reference to the several state constitutions, that "*white* male citizens" only are mentioned as entitled to the right of suffrage, in most of the states. In the New England states, except Connecticut, there is no exclusion of colored citizens from the right of voting. And in New York, male citizens of color owning a freehold estate of the value of $250, are qualified electors. The justice or propriety of excluding a class of citizens from a participation in the government on account of color, may well be questioned.

EXERCISES.

§ 1. What are the two principal acts of political power?

§ 2 Give some reasons why females and male youth are not made voters. At what age does a young man become a freeman and a voter?

§ 3. What provision is made by constitutions as to an elector's residence? Why is this necessary? What term of residence is required in this state?

§ 4. What restrictions upon the elective franchise as to property formerly existed? Define *freeholder*.

§ 5. What is the present character of the state constitutions in regard to the right of suffrage? Is the property qualification continued in any state? To what extent? Can you assign any reasons why an elector should or should not be required to own property? What are the qualifications of an elector in this state?

§ 6. What class of men are not included in the term, male citizens? For what reasons are foreigners not allowed to vote? What is the process called by which aliens are made citizens?

§ 7. By what acts may electors disfranchise themselves? Define disfranchise. How may this disqualification be removed?

§ 8. What restrictions as to color exist? Where? and to what extent? Give your opinion as to the justice of this restriction.

CHAPTER IX.

Of Elections.

§ 1. Elections are annually held in each state for electing officers to serve in the several administrations of state, counties, and towns. Town meetings for the election of town officers are usually held in or near the months of March and April. Most officers elected by the people, other than town officers, are chosen at the general state election, which, in most of the states, is held in the month of October or November.

§ 2. Elections are conducted by persons designated by law, or chosen by the electors of the towns for that purpose. It is their duty to see that order is preserved, and that the business at elections is properly done. They are usually called judges of elections, or inspectors of elections. Persons also, (usually two,) are appointed to serve as clerks. The object of having more than one clerk is to guard more effectually against mistakes in registering the names of voters.

§ 3. Each clerk keeps a list of the names of the electors voting at the election, which is called a poll-list. *Poll* is a Saxon word, signifying *head*, and has come to mean person. Hence, so much "a head" means so much for every person. By a still farther change, it is made to signify an election, because the persons there voting are numbered. Thus, "going to the polls" has obtained the same meaning as going to an election, or to the place of voting.

§ 4. When the officers of the election are ready to receive votes, one of them makes it known by a proclamation or public announcement of the fact. Each elector hands to one of the inspectors a ballot, which is a slip of paper on which are written or printed the names of the persons he votes for, and the name of the office to which each is intended to be elected. The inspector receiving the ballot pronounces the name of the elector; and if no objection is made to his voting, and the inspectors are satisfied that he is a lawful voter,

the ballot is put into the box; and the clerks enter his name on the poll-list.

§ 5. If the inspectors have reason to suspect that a person offering to vote is not a qualified elector, they may, before receiving his ballot, question him upon his oath in respect to his qualifications as to age, the term of his residence in the state and county, and his citizenship. Any bystander also may question his right to vote. This is called *challenging*. A person whose vote is thus challenged, is not allowed to vote until the challenge is withdrawn, or his qualifications are either proved by the statement of other persons, or sworn to by himself.

§ 6. In the New England states, a list is made out and kept of all persons in each town who shall, upon examination, have been ascertained to be duly qualified voters; and those only whose names are thus registered are allowed to vote. Thus is avoided much of the confusion and delay often caused in other states, by the examination of voters at the time of voting; and much illegal voting is also prevented. Voters are also required to take what is called the "elector's oath," in which they promise to be true and faithful to the state and its government, and also to the constitution of the United States; and to give their votes as they shall judge will conduce to the best good of the same.

§ 7. After the polls are closed, the box is opened, and the ballots are counted. If the number of ballots agrees with the number of names on the poll-lists, it is fair to presume that no mistake has been made either in voting or in keeping the lists. The number of votes for each candidate is then counted; a statement is made of the names of all the persons voted for, and of the number of votes given for each, and signed by the officers of election. This statement, or a copy of it, is deposited with the town clerk, either to be kept on file or recorded. If the election is one for the choice of town officers, it is there determined who are elected, and their election is publicly declared.

§ 8. The election of county and state officers can not, of course, be determined by the canvassers in the towns. The statement of votes given for the several candidates in each town, is sent to the board of county canvassers, who deter-

mine and declare the election of those officers who are chosen for the county; and a statement of the votes for state officers and others who are voted for in other counties also, or throughout the state, is sent to the state canvassers at the seat of government, who, from the returns from the several counties, determine and declare the election of these officers.

§ 9. In the states of Virginia, Kentucky, Missouri, and Arkansas, voting at popular elections is done openly, or *viva voce*. Viva voce means literally, living voice. In voting in this manner, the elector pronounces the name of the person for whom he votes.

§ 10. In most of the states, the election of officers is effected by a plurality of votes. An election by *plurality* is when the person elected has received a higher number of votes than any other. In the six New England states, a *majority* of all the votes given is required to constitute a choice. The difference between a plurality and a majority is, that when more than two persons are candidates for an office, the highest number of votes given for any of them may be less than a majority. If, for example, out of 1,000 votes given for three candidates, one should receive 450, another 300, and the third the remaining 250 votes, there would be no choice in the states mentioned, because a majority of all the votes can not be less than 501. There are a few exceptions to the majority principle in some of these states, which will be noticed elsewhere.

§ 11. Each of these modes is liable to an objection. Where a simple plurality effects a choice, a candidate may be elected by a very small portion of all the votes given. 1,000 votes may be so divided upon three candidates as to elect one of them by 334 votes. Or one of four candidates may be elected by 251 votes; in which case the person elected might represent the wishes and interests of but a small portion of the people of his district. The objection to the other mode is, that when no person receives a majority of all the votes, a new election must be held. Sometimes numerous unsuccessful trials are made before a choice is effected; thus subjecting the electors to much inconvenience. Cases have occurred in which districts of people have been for a time without a representative in the state or national legislature.

EXERCISES.

§ 1. How often are elections held in the states? When are they usually held? When are elections held in this state?

§ 2. By whom are elections usually conducted? What officers conduct the elections in this state? and what are they severally called?

§ 3. What duty is performed by the clerks? Define poll.

§ 4. Describe the process of voting?

§ 5. If a person's right to vote is questioned, what is necessary in order to his being allowed to vote?

§ 6. How is illegal voting guarded against in the New England states? What oath do electors take?

§ 7. Describe the manner of canvassing the votes; and of determining, certifying, and declaring the result of the election.

§ 8. How and where is the election of county and state officers ascertained? Can you tell who constitute the board of county canvassers, and that of state canvassers, in this state?

§ 9. In what states is voting done *viva voce*? How is it done?

§ 10. State the difference between election by plurality and election by majority. Give an example. Which mode prevails in this state? In what states does the other mode prevail?

§ 11. Do you see any objection to either of these modes? State the objections. Which do you consider the preferable mode?

CHAPTER X.

Of the Legislature.

§ 1. The legislative or law-making power of every state in the Union, is composed of two houses, a senate and house of representatives. The senate, as well as the other house, is a representative body, its members being elected by the people to represent them. The reasons why the lower house is usually denominated the "house of representatives," are probably these: first, its members are, in nearly all the states, elected for shorter terms than senators; secondly, it is the more numerous body, the number of its members being from two to four times greater than the number of senators, and consequently representing smaller districts; hence, they may be considered as more fully and more immediately representing the people.

§ 2. Representatives are, in most of the states, elected annually. Senators also are chosen annually in the New England states and Georgia. In other states, they are elected for terms of two, three or four years, and in one state, Maryland, for the term of six years. In states in which senators are elected for longer terms than one year, the senators are not all elected at the same time. They are divided into different classes, those of one class going out of office one year, and another class another year; so that only a part of the senators are elected every year, or every two, three, or four years. They are so elected in the states of Ohio, Pennsylvania, and Kentucky. In New York and a few other states, the senators are not thus classified.

§ 3. The senate is sometimes called, by way of distinction, the upper house, being a more select body, composed of men generally chosen with reference to their superior ability and their greater experience in public affairs.

§ 4. Senators are differently apportioned in different states. In some of the states, they are apportioned among the several counties in such manner as the constitution prescribes. In others they are elected by districts, the state being divi-

ded into as many districts as there are senators, and one senator to be elected in each, as at present in New York. In a few of the states, the senatorial districts are unequal in their size and population; so that more senators are chosen in some districts than in others.

§ 5. Representatives are, in most of the states, apportioned, as nearly as may be, among the several counties, according to the number of inhabitants in each county. This mode of apportionment may be thus illustrated: The state of New York contained, according to the enumeration of its inhabitants in 1845, a representative population of 2,399,548, exclusive of aliens, paupers, and all persons of color who do not pay taxes; these several classes not being taken into account in making the apportionment. This number being divided by 128, the number of representatives in the assembly, gives 18,746 as the number of inhabitants entitled to a representative. As many times, therefore, as this number is contained in the number of inhabitants in each county, to so many representatives is the county entitled.

§ 6. In the New England states, the representatives are apportioned among the several towns of the state. The rules, however, by which the apportionment is made, are not the same in all of these states. These rules will be found in another part of this work. (See synopsis of the State Constitutions).

§ 7. In the states of New York and South Carolina, representatives are elected by districts. By the constitution of New York, adopted in 1846, the representatives are apportioned among the several counties in the manner prescribed in a preceding section; and the counties entitled to more than one representative are divided into as many districts as they have representatives; the districts to contain, as nearly as may be, an equal number of inhabitants, and a representative to be elected in each district.

§ 8. There are always some counties or districts in which the population increases more rapidly than in others, so that of two counties containing nearly an equal number of inhabitants when an apportionment of representatives is made, the population of one of them may, a few years thereafter, be double that of the other. The county having then so much

the more numerous population, will be entitled to a greater number of representatives.

§ 9. It is therefore provided by the constitution, that, at the end of certain periods, the inhabitants of the state shall be numbered, and a new apportionment of senators and representatives made, according to such enumeration, so that each county and district may have its just proportion of senators and representatives. The periods of time between the enumerations are not the same in all the states, varying from four to ten years. An enumeration of the people is usually called *census*, which, among the Romans, meant the valuation of a man's estate, and the registering of himself and his family.

§ 10. Not every qualified voter may be elected a member of the legislature, except in the state of New York, and perhaps a few others. To be eligible to the office of senator or representative, the constitution requires that a person shall have resided in the state for a certain term of years. In most of the states senators, and in a few of them representatives, must be of greater age than twenty-one years; and in some of them they are also required to be freeholders.

§ 11. If a senator dies, or resigns his office, before the term expires for which he has been elected, the vacancy is filled by the election of another person at the next election of senators, or in such other manner as the constitution may provide. But the person chosen to fill a vacancy, holds the office only for the remainder of the term of him in whose stead he was chosen. Where senators are elected to serve but for a single session, as is the case where they are chosen annually, no provision to fill a vacancy seems to be necessary.

EXERCISES.

§ 1. Are both branches of a state legislature representative bodies? Why then is one of them styled "house of representatives?"

§ 2. For what periods or terms of time are senators and representatives usually elected? How are senators classified in some states; and for what purpose? Are they so divided

and classed in this state? For what term are they chosen in this state?

§ 3. Which is called the upper house; and why?

§ 4. In what different ways are senators apportioned in different states? How in this state?

§ 5. How are representatives apportioned? Give an example of this mode of apportionment.

§ 6. How are they apportioned in the New England states? How in this state?

§ 7. In which states are representatives elected by districts? How are these districts formed in New York?

§ 8, 9. What provision is usually made for keeping the representatives of counties or districts proportioned to their population? What are the origin and meaning of the word census?

§ 10. Is every elector eligible to a seat in the legislature? What restrictions exist in some states? How is it in this state?

§ 11. How are vacancies in the office of senator filled?

CHAPTER XI.

Organization of the Legislature; Privileges of Members, Appointment of its Officers.

§ 1. THE legislature, composed of the senate and house of representatives, meets at a time and a place, (both of which are usually mentioned by the constitution,) for the purpose of considering the condition of the state, and of enacting such laws as may be necessary to promote the welfare of the people. In nine states, all of them southern states except Illinois and Iowa, the legislature meets every two years; and their representatives are accordingly elected biennially. Meetings of the legislature are held at a place permanently fixed by the constitution or by act of the legislature; at which place the principal state officers keep their offices. Hence it is called the seat of government, or more frequently the *capital* of the state. The building erected for

the accommodation of the legislature and other state officers, is called the *capitol*.

§ 2. The two houses having assembled, each in its own chamber, every representative and every new senator is required, before proceeding to business, to take the oath of office, in which he solemnly swears that he will support the constitution of the United States, and the constitution of his own state; and that he will discharge the duties of his office according to the best of his ability.

§ 3. All persons elected to the more important and responsible public offices, are required to take such oath. An *oath* is a solemn declaration, in which the person appeals to God to bear witness to the truth of what he declares. Oaths are required because it is presumed that persons under the obligation of an oath will be less likely to do wrong than otherwise they would be. Many, however, even under these solemn obligations to do right, discharge their duties very unfaithfully. The faithful discharge of public duties is best secured by the election of good men.

§ 4. The constitution declares what number of members shall constitute a quorum. *Quorum* means such number of any body of men as have power to act. It seldom happens that all the members of a numerous body can be present at the same time; yet to allow a small number to transact business so important as that of making laws, would not be safe. Hence, constitutions generally declare that a majority of all the members of each house shall be necessary to constitute a quorum to do business. A smaller number, however, has power to adjourn from time to time, and to compel the attendance of absent members. In some states, two-thirds constitute a quorum.

§ 5. Every legislative body must have some rules and order of doing business. The constitution allows each house to determine the rules of its own proceedings; but that the public may know what business is done, each house is required to keep a journal of its proceedings, and to publish the same, except such parts as ought to be kept secret. And that persons wishing may witness its proceedings, the doors of each house must be kept open, except when the public welfare requires secrecy.

§ 6. To prevent injury or interruption to the public business, constitutions provide, that members shall not, except for certain crimes and misdemeanors, be arrested on civil process during the session of the legislature, or in going to or returning from the same. This means, in plain language, that they shall not be detained by prosecutions at law, except in cases of crime mentioned in the constitution or laws of the state.

§ Each house has power to expel any of its members, and punish its members and officers for disorderly behavior, by imprisonment. And each house may also punish other persons as well as its members, for contempt or insult offered to the house; for disorderly conduct tending to interrupt its proceedings; for publishing false and malicious reports of the proceedings, or of the conduct of the members; and for sundry other offences.

§ 8. After the members have been sworn into office, they proceed to the appointment of officers of their respective houses. Each house elects one of its members as chairman, who is usually called *speaker*. The lieutenant-governor, in states where there is one, presides in the senate, and is called *president of the senate*. In the absence of a presiding officer, a temporary speaker or president is elected, who is called speaker or president *pro tempore;* commonly abbreviated, *pro tem.*, which is a Latin phrase, meaning for the time.

§ 9. It is the duty of the person presiding to keep order, and to see that the business of the house is done according to its rules. And when a vote is to be taken he "puts the question;" which is done by requesting all who are in favor of the proposed measure to say "aye," and those opposed to say "no;" and when a vote has been taken, he declares the question to be carried or lost, as the case may be. This part of a speaker's business is much the same as that of the chairman or president of an ordinary meeting.

§ 10. Each house also chooses a *clerk* to keep a record or journal of its proceedings; to take charge of papers, and to read such as are to be read to the house; and to do such other things as are required of him; a *sergeant-at-arms*, whose duty it is to arrest members or other persons guilty of disorderly conduct, to compel the attendance of absent members,

and to do other business of a like nature; also one or more *door-keepers*. The officers mentioned in this section are not selected from the members of the house, but from the citizens at large.

EXERCISES.

§ 1. How often does a state legislature meet? For what purpose? Are meetings of the legislature held annually in all the states? Where do legislatures meet? Where is the capital of this state? How is the legislature in this state styled?

§ 2. What oath do members take?

§ 3. Can you tell the nature of an official oath? What is the object of an oath?

§ 4. What is the meaning of quorum? How many are necessary to constitute a quorum in the legislature of this state?

§ 5. By whom are the rules and order of business determined? How may the people know what business is done?

§ 6. What privilege have members as to arrest? What is the meaning of this?

§ 7. How, and for what, may members and others be punished by the house?

§ 8. What are the presiding officers of legislative bodies called? How are they chosen? Is there a lieutenant-governor in this state? What, then, is the presiding officer of the senate called?

§ 9. Mention the general duties of a speaker.

§ 10. What other officers are chosen by each house; and what are their duties?

CHAPTER XII.

Of the Manner of Enacting Laws.

§ 1. When the two houses, having been duly organized, are ready for business, the governor sends to both houses a *message*, which is read to each house by its clerk. The governor exhibits in his message the condition of the affairs of the state, and calls the attention of the legislature to such subjects as he thinks ought to receive their consideration and action.

§ 2. Soon after the legislature has commenced its business, the committees of each house are appointed. A *committee* consists of one or more persons appointed or chosen to consider and to act upon any matter intrusted to them. A legislative committee generally consists of either three, five, or seven members. The committees are numerous, and are usually appointed by the presiding officer of each house. Some or all of the following committees are appointed in the legislature of every state: a committee on finance; a committee on agriculture; a committee on manufactures; committees on the incorporation of cities and villages; on banks and insurance companies; on rail roads and canals; on education; and numerous other subjects of ordinary legislation.

§ 3. The object of appointing these committees is to expedite the business of the house. So great a number and variety of subjects are presented for the action of the legislature, that they could not all be disposed of during the longest session, if the whole house were occupied in the investigation of every subject. But as all the information necessary to enable the house to act understandingly, may as well be obtained by a committee composed of a few men as by the whole house, inquiries into many of these subjects may be going on at the same time. Applications for the establishment of banks, are referred to the committee on banks to inquire into the necessity of such banks; subjects relating to schools, are referred to the committee on education; those relating to rail-roads, to the committee on rail-roads, &c. Thus is every subject

referred to its appropriate committee. If at any time a matter arises having no relation to those subjects upon which standing committees are appointed, it is usually proposed to refer it to a *select* committee, appointed for the special purpose of considering such subject.

§ 4. The members of the several committees meet from time to time during hours when the house is not in session, to consider the matters referred to them. At the meeting of a committee, any person wishing to be heard in favor of or against a proposed measure, may appear before the committee for this purpose. Persons from all parts of the state are usually in attendance during the sessions of the legislature to urge or oppose the passage of laws in which they are interested.

§ 5. After due inquiry and consideration, committees make their reports to the house. A report of a committee contains a statement of the facts that have been ascertained, and of the reasons why the law prayed for ought or ought not to be passed. If a committee reports against a measure, the house generally dismisses the subject: if the commitee reports in favor of such a measure, it usually brings in a bill with the report. A *bill* is a draft or form of an intended law.

§ 6. Not all bills, however, which are brought before the house, are reported by committees. Any member of the house desiring the passage of a law, gives notice that he will, on some future day, ask leave of the house to introduce a bill for that purpose; and, at the time specified, if the house shall grant leave, he may introduce the bill. But in all cases, at least one day's previous notice must be given of his intention to ask leave, before leave can be granted to introduce a bill.

§ 7. A bill must go through many stages and forms of deliberation before it can become a law; all of which it is not deemed important to detail in this place. These forms of deliberation and action are, with some unimportant exceptions, the same in all legislative bodies in the Union. Before a bill is passed, it must be read three times; but it may not be read oftener than once on the same day without the consent of the whole house, in some states; in others, three-

fourths or two-thirds of the house. Nor can it be altered or amended before its second reading.

§ 8. After a bill has been read twice, it is referred to a committee of the whole house, to be taken up for discussion and amendment. When a house resolves itself into a committee of the whole to consider a bill thus committed, the speaker appoints another member to the chair, and the speaker takes part in the debate, if he chooses, as an ordinary member. When either house is in committee of the whole, the person presiding is addressed as "chairman." When not in committee of the whole, the person occupying the chair, whether he be the speaker himself, or some person temporarily appointed to the chair, is called "speaker." In senates, however, whose presiding officer is called president of the senate, the person thus appointed to fill the chair, when the senate is not in committee of the whole, is addressed as "president."

§ 9. After a bill has been fully discussed and amended, it is proposed to be engrossed, and to be read on a future day the third time. To *engross* a bill is to copy it in a large, fair hand, after it has been amended in committee of the whole. On the proposition to engross a bill for a third reading, is the proper time for those opposed to the bill to take their stand against it. If the question on the engrossment and third reading of a bill is not carried, the bill is lost, unless revived by a vote of the house to reconsider. But if the question to read a third time is carried, the bill is accordingly read on a future day, and the question taken on its final passage. Farther amendments are sometimes made to a bill on its third reading.

§ 10. When the final vote is to be taken, the speaker puts the question: "Shall the bill pass?" and requests those in favor of it to say "aye," and those opposed to say "no." If a majority of the members present vote in the affirmative, (the speaker also voting,) the bill is passed; if a majority vote in the negative, the bill is lost. Also if the ayes and noes are equal, it is lost, for lack of a majority in its favor. In a senate where a lieutenant-governor presides, not being properly a member, he does not vote, except when the ayes and noes are equal: in which case there is said to be a *tie*.

He then determines the question by his vote, which is called the *casting vote.*

§ 11. When a bill has passed one nouse, it is sent to the other to be considered and acted upon in the same manner; and if agreed to by that house also, without alteration, the bill is passed. If a bill be amended in the second house, it must be returned to the first, and the amendments agreed to, or the bill is lost. Some bills are sent several times from one house to the other with amendments, before they are agreed to by both.

§ 12. In a majority of the states, a bill, after it has passed both houses, is to be sent to the governor to be approved and signed by him. If he refuses to sign it, it is no law. This power of a governor to *negative* a bill, is called the veto power. *Veto* is a Latin word, signifying *I forbid.* No executive, however, in this country, has the power of an *absolute,* but only a *qualified negative* upon acts of legislation. If no laws could be enacted without a governor's assent, the people in this country would be in a condition much the same as that of a people who live under a monarchy.

§ 13. Provision is therefore made in all constitutions which require bills to be presented to the governor, for the enactment of laws without his approval. If he refuses to sign a bill, he must return it to the house in which it originated, stating his objections to it; and if it shall be again passed by both houses, it will be a law, without the governor's approval. But in such cases greater majorities are required to pass a law. In some states, a majority of two-thirds of the members present is required to pass a bill returned by the governor; in others a majority of all the members elected to each house. Or if the gonernor does not return a bill within a certain number of days, it becomes a law without his approval, or without being considered a second time.

§ 14. In eight states of the Union, bills are not submitted to the governor for his approval, but become laws as soon as they are signed by the officers of both houses.

§ 15. It may be asked, Why should a bill ever be sent to the governor for his approval? For reasons similar to those for which a legislature is made to consist of two branches. Bills are often passed hastily, and without due information.

Or, a house may, after the most careful deliberation, pass a bill without discovering all its errors. It is a wise provision, therefore, to require a bill having passed one house to be sent to another, where any mistakes committed by the first house may be detected, and the bill either amended or wholly rejected.

§ 16. But errors are sometimes committed by both houses. Therefore to guard still more effectually against the enactment of bad laws, it is provided that the governor also shall examine and approve bills. But that it may not depend on one man what laws the people shall have, the governor is required to return to the legislature all bills which he does not approve, to be passed, if possible, in the manner prescribed by the constitution.

§ 17. The compensation of members of the legislature is fixed by the constitution in some states, in others by law, and paid out of the treasury of the state.

EXERCISES.

§ 1. What communication does a governor make to the legislature?

§ 2. What is a committee? Name some of the subjects on which committees are appointed? By whom are they appointed?

§ 3. For what purpose are committees appointed? State briefly how business is expedited by committees. What are standing and select committees?

§ 4. How and when are the labors of committees performed?

§ 5. When and what do committees report to the house? Define a bil..

§ 6. In what other way are bills introduced?

§ 7. How often must a bill be read before it is passed? May it be read oftener than once on the same day?

§ 8. When is a bill referred to a committee of the whole? How does a house get into a committee of the whole? For what purpose does it resolve itself into such committee? What change then takes place in the chair? By what title

is the presiding officer addressed? In what case is he addressed as "president?"

§ 9. In what stage of the proceedings is a bill ordered to be engrossed for a third reading? Define engross. When are the merits of a bill discussed?

§ 10. Describe the manner of taking the final vote upon a bill—also a *tie*, and *casting vote*. Does the lieutenant-governor preside in the senate in this state?

§ 11. After a bill has passed one house, what is done with it?

§ 12. After it has passed both houses, what course does it take? Define veto—absolute negative—qualified negative.

§ 13. What provision is made to pass bills without a governor's assent? What in this state?

§ 14. Does the veto power exist in this state? In what states does it not?

§ 15, 16. State the reasons why bills are required to pass through both houses; and why submitted to the governor.

CHAPTER XIII.

Of the Executive Department.—Governor and Lieutenant Governor.

§ 1. THE chief executive power of a state is, by the constitution, vested in a governor. He is assisted in the administration of the government by several subordinate executive officers. The governor is chosen at the general annual election. In Virginia and South Carolina, the governor is chosen by the legislature. The terms of office are not the same in all of the states. In the six New England states, the governor is chosen annually; in the other states for different terms of two, three, and four years.

§ 2. The qualifications of governors are also different in different states. To be eligible to the office of governor, a person must have been for a certain number of years a citizen (in some states a native born) of the United States; and for a term of years preceding his election a resident of the state.

He must also be of a certain age, which, in a majority of the states, is at least thirty years; and in some of the states he must be a freeholder.

§ 3. The powers and duties of a governor are numerous. Some of those usually mentioned in a constitution are the following: He sends to the legislature at the beginning of every session, a message, containing a statement of the general affairs of the state, and recommending such measures as he shall judge to be expedient. It is his duty also to see that the laws are executed, and to transact all necessary business with the officers of government.

§ 4. A governor has power also to grant reprieves, and in most of the states pardons, except in cases of treason and impeachment. If a person is sentenced to suffer death, a governor may, if he thinks proper, put off the execution of the sentence to a later time than the day appointed. This is granting a *reprieve*. The granting of a *pardon* would entirely free him from punishment. In some states the pardoning power is exercised by the legislature.

§ 5. The governor has power also, in some states, with the consent of the senate, to appoint the higher militia officers, and certain civil officers in the executive and judicial departments. In a few of the states, there are executive councils, whose advice and consent are required in such cases. In making such appointments, the governor nominates, that is, he names to the senate, in writing, the persons to be appointed. If a majority of the senators present consent, the person so nominated is appointed. Many other powers and duties are by the constitution devolved upon the governor, as will be seen hereafter.

§ 6. The duties of a lieutenant-governor are not very numerous. He is president of the senate, as has been stated, but has only a casting vote therein. The principal object in electing this officer seems to be to provide a suitable person to fill the office of governor in case the same should become vacant. In about one half of the states, the office of lieutenant-governor does not exist.

§ 7. When the lieutenant-governor acts as governor, the senate chooses from its own number a president. And if the offices of both the governor and lieutenant-governor should

become vacant, the president of the senate must act as governor. In states where there is no lieutenant-governor, the duties of the governor, in case of vacancy, devolve upon the speaker of the senate; and if the office of the speaker of the senate also becomes vacant, then the speaker of the house of representatives acts as governor.

EXERCISES.

§ 1. In whom is the chief executive power of a state vested? For what terms of office are governors chosen? At what elections? In what states is the governor not elected by the people? For what time is the governor chosen in this state?

§ 2. What are the usual qualifications of a governor? What are they in this state?

§ 3. What are the principal duties of a governor?

§ 4. By whom are reprieves and pardons granted? Define reprieve and pardon. Has the governor this power in all the states? Has he in this state?

§ 5. What part has the governor in making appointments?

§ 6. Are the duties of a lieutenant-governor numerous, and of great responsibility? What is his principal duty?

§ 7. How is the office of president of the senate supplied, when the lieutenant-governor acts as governor? Who acts as governor when the offices of both governor and lieutenant-governor become vacant? If there be no lieutenant-governor, who then fills a vacancy in the office of governor? Who next?

CHAPTER XIV.

Executive State Officers.

§ 1. Among the executive officers who assist in the administration of the government, there are in every state either some or all of the following; a secretary of state; a comptroller, or auditor; a treasurer; an attorney-general; and a surveyor-general. The mode of appointment and the terms of office, are prescribed by the constitution or by law. In some states these officers are appointed by the governor and senate; in others by the legislature; and in others they are elected by the people. These officers keep their offices at the seat of government of the state.

§ 2. The *secretary of state* keeps a record of the official acts and proceedings of the legislature, and executive departments, and has care of all the books, records, deeds of the state, and parchments, and of all the laws enacted by the legislature, and all other papers and documents required by law to be kept in his office.

§ 3. It is the duty of the secretary of state to see that the laws are published. He causes accurate copies to be made of all the laws passed by the legislature, and published in one or more papers, as directed by law. And after the close of each session of the legislature, he also causes the laws to be printed and bound together in a volume, and distributed. Copies of the laws thus bound, are deposited in the public offices of the state, for the use of the officers of the government; and a copy is sent to each county clerk, and to each town clerk in the state, to be kept in their offices for the use of the people who wish to examine the laws. Copies are also sent to certain officers of the government; and one or more copies are exchanged with each of the states, for copies of their laws to be kept in the state library. Various other duties devolve upon the secretary of state, as will be seen hereafter.

§ 4. The *state auditor*, in some states called *comptroller*, manages the financial concerns of the state, that is, the busi-

ness relating to the money, debts, land, and other property of the state. He examines and adjusts all accounts and claims against the state, and superintends the collection of moneys due the state. When money is to be paid out of the treasury, he draws a warrant (a written order) on the treasurer for the money, and keeps a regular account with the treasurer, charging him with all the money the treasurer receives, and giving him credit for all he pays out on the orders of the comptroller or auditor. He reports annually to the legislature a statement of the funds of the state, and of its income, and its expenditures during the preceding year.

§ 5. The *treasurer* has charge of all the public moneys that are paid into the treasury, and pays out the same as directed by law. And he is required to keep an accurate account of such moneys, specifying the names of the persons from whom received, to whom paid, and for what purposes. He also exhibits annually to the legislature a statement of moneys received and paid out by him during the preceding year, and of the balance in the treasury.

§ 6. Auditors and treasurers, and other public officers intrusted with the care and management of money or other property, are generally required, before they enter on the duties of their offices, to give bonds, in sums of certain amount specified in the law, with sufficient sureties, for the faithful performance of the duties of their offices. The sureties are persons who bind themselves in writing to pay the state whatever the officer fails to pay, or whatever damage shall be sustained by his neglect of duty, not exceeding the sum mentioned in the bond.

§ 7. The *attorney-general* is a person learned in the law, appointed to manage law-suits in which the state is interested. He prosecutes persons indebted to the state, and causes to be brought to trial persons charged with certain offences. He also gives his opinion on questions of law submitted to him by the governor, the legislature, and the heads of the departments. In some states, there is no attorney-general; suits in which the state is concerned being conducted on the part of the state by the state's attorney for each county.

§ 8. The *surveyor-general* superintends the surveying and selling of lands belonging to the state. He keeps in his office

maps of the state, describing the bounds of counties and towns; and when disputes arise respecting the boundaries, he causes surveys to be made, if necessary, to ascertain such bounds. These and other similar duties he is by law required to perform.

§ 9. There are sundry other officers, denominated state officers, among whom are the following: an adjutant-general; a commissary-general; a state librarian; superintendents and inspectors of state prisons or penitentiaries, lunatic asylums, and other state institutions; the duties of some of whom will be described in subsequent chapters.

EXERCISES.

§ 1. Name the principal assistant executive officers. How are they appointed? Which of these officers exist in this state? How are they chosen?

§ 2. Mention the general duties of secretary of state.

§ 3. What are his duties relative to the publishing and distributing of the laws?

§ 4. Mention the general duties of the comptroller or auditor. By which name is he called in this state?

§ 5. State the general duties of a state treasurer.

§ 6. What officers usually give bonds for the faithful performance of their duties? Describe the nature of such bond. What is the amount of the treasurer's bond in this state?

§ 7. Mention the general duties of an attorney-general. Is there such officer in this state?

§ 8. State the general duties of a surveyor-general. How chosen?

§ 9. Name some other state officers.

CHAPTER XV.

Of the Incorporation of Towns, Villages, &c., and their Corporate Powers.

§ 1. The necessity of dividing a state into towns and counties, has already been mentioned. The people, in the exercise of political power, can act only in a *collective* capacity. But as the freemen of a whole state, or even of a county, cannot be collected in a single assembly, they meet in the several towns. The people at their town meetings act in the capacity of a simple democracy, which, as has been remarked, is a government in which all the citizens meet in one body to do business.

§ 2. Towns and counties are bodies corporate, or bodies politic. A *body politic*, or corporation, is a number of persons united and authorized by law to act under one name, and as a single person, in the transaction of business. Hence a community of people, united for purposes of government, is a body politic. Persons associated for any purpose without being incorporated by law, are not called a corporation The object of incorporating an association by law is to give its members the power to make certain rules for their government, and to enforce these rules; and the power to sue and the capacity to be sued, and to hold and sell property as one person.

§ 3. Men unite their money or capital in trade or some other business. This is called a partnership. A corporation, though a kind of partnership, is very unlike a common business partnership. Persons united in trade can bind none by their contracts but those who have consented to go into the partnership; and when they die, the partnership ends. But when the persons who first composed a corporation are all dead, the corporation is still alive; for those who come after them have all the powers and privileges which those had who were first incorporated.

§ 4. There is another difference: No person can be brought into a partnership without his consent; whereas a law incor-

porating a town, city, or village, brings all the inhabitants within its bounds into the corporation, often against the desire or the consent of many of them. Not so, however, in respect to rail-road, banking, and certain other corporations. These are formed voluntarily by the persons associated.

§ 5. To show the effect of an act of incorporation, suppose it necessary to construct side-walks, or to make some other improvements in an unincorporated village, and that a part of the inhabitants are unwilling to pay their share of the expense of such improvements. Without an act of incorporation, there is no authority to compel them to do so. Those, therefore, who desire it, petition the legislature for such act. This act authorizes the citizens of the village to establish the desired government, and to make such laws and regulations as may be essential to their convenience and safety. And in the name of the trustees or other proper officers, they may sue and be sued, hold and sell property for the use of the inhabitants, and do other things which an individual person may do. And when the present inhabitants shall have passed off, those who shall then occupy their places will constitute the same corporation.

§ 6. In some states, there is a general law under which the inhabitants of any village may form themselves into such corporation, with the necessary powers of government, without a special law of incorporation for every village whose inhabitants desire to be incorporated.

§ 7. Not only is every city, town, and county a corporation, but the state itself, whose citizens are united for government purposes, constitutes one great corporation. The latter, however, is not formed by an act of the legislature as other corporations are, but by the act of the people themselves in establishing the constitution or political law of the state.

§ 8. Besides the powers of towns as bodies corporate mentioned in preceding sections, the electors of a town have power, at their annual town meetings, to order money to be raised for the support of the poor and of common schools, for the building of bridges, and for other town purposes; to make regulations concerning fences; to fix the compensation of

town officers in certain cases; and to perform such other acts as come within the usual power of towns.

§ 9. Besides these *territorial corporations*, as counties, towns, cities, &c. for the purposes of government, there are *incorporated companies* for carrying on business of various kinds, as turnpike and rail-road companies, and companies for purposes of manufacturing, banking, insurance, &c. These several kinds of business, to be carried on extensively and successfully, usually require a larger amount of money than a single individual possesses. A number of persons therefore unite their capital, and ask for an act of incorporation granting them powers which they could not have in the capacity of an ordinary business partnership. A more particular description of some of these corporations will be given in another chapter.

EXERCISES.

§ 1. What reason is here mentioned for dividing a state into towns? What is the nature of a town government?

§ 2. Define body politic, or corporation. State the general objects and powers of a corporation.

§ 3, 4. In what respects do corporations and business partnerships differ? How long does a corporation continue? Can you tell how many years the town you live in has been incorporated?

§ 5. Give an example of the nature and effect of an act for the incorporation of a village.

§ 6. What benefit is gained by a *general* law authorizing corporations? Are there any objections to such law?

§ 7. What is the difference between an act incorporating a state and that of incorporating other bodies?

§ 8. What powers other than those already mentioned, do towns possess?

§ 9. What business companies are incorporated? Why are laws for their incorporation necessary?

CHAPTER XVI.

Of County Officers; and their Powers and Duties.

§ 1. Although the names of the officers of the county administration, and the distribution of powers therein, are in some respects different in different states; the powers exercised and the duties performed, are nearly the same in all the states. Their terms of office and the mode of their appointment, are also different; being in some states appointed by the legislature or some other power, and in others elected by the people of the counties at the general election.

§ 2. Among the corporate powers of a county have been mentioned the power of suing and being sued, and of performing certain other acts. But there must be some man or body of men in whose name the powers of a county, as a body politic, are to be exercised, and all acts and proceedings by and against it are to be done. In some of the New England states, Ohio, and some others, there is a board of *county commissioners*, (usually three,) who exercise certain corporate powers. In New York and Michigan these powers are exercised by and in the name of the *board of supervisors*, which is composed of the supervisors of the several towns, there being a supervisor in each town. In other states this body is still differently constituted. This board has power also to examine and settle the accounts against the county, and to order the raising of money to defray its expenses; to make orders or contracts in relation to the building or repairing of the court-house, jail, and other county buildings, and to perform such other duties as the laws require.

§ 3. There is also a *treasurer* in each county, to receive and pay out the money required to be collected and paid out in the county. There is also an *auditor* in some states, whose duty it is to settle and allow accounts and debts against the county, and to perform certain other duties. The duties of county auditors, in their several counties, are similar to the duties of a state auditor. In states in which there is no

county auditor, his duties are in part performed by the county treasurer, or some other county officer or officers.

§ 4. There is also a *register* or *recorder*, who provides suitable books, and records in them all deeds, mortgages, and other instruments of writing required by law to be recorded. In New York, and perhaps in some other states, the business of a register or recorder is performed by a *county clerk*, who is also clerk of the several courts held in the county, and who serves in the capacity of clerk or secretary to certain boards of county officers. In some states, deeds, mortgages, &c., are recorded by the town clerks of the several towns.

§ 5. Another county officer is a *sheriff*, whose duty it is to attend the sittings of all courts held in the county; to execute all warrants, writs, and other processes directed to him by the proper authority; to apprehend persons charged with crime; and to take charge of the jail and the prisoners therein. It is his duty also to preserve the public peace; and he may cause all persons who break the public peace within his knowledge or view, to give bonds, with sureties, for keeping the peace, and for appearing at the next court of common pleas, and commit them to jail if they refuse to give such bonds. He performs many other duties. He has usually one or more deputies to assist him. Sheriffs are generally elected by the people.

§ 6. There are in each county one or more *coroners* to inquire into the cause of the death of persons who have died by violence, or suddenly, and by means unknown. When such death occurs, notice is given to the coroner, who orders a jury to be summoned, and witnesses subpœnaed, and repairs to the place of such dead person to inquire into the cause and manner of the death. Hence, such examination is called a *coroner's inquest*. The fees of sheriffs and coroners are fixed by law.

§ 7. In some states there is a *county-surveyor*, whose duties within his county are similar in their nature to those of a state surveyor-general.

§ 8. An attorney, elected, or appointed, for the purpose, attends all courts in which persons are tried in the county courts for crimes, and conducts all prosecutions for crimes

tried in such courts. In states where there is no attorney-general for the state, the prosecuting attorney for each county serves in this capacity, in trials in which the state is a party. As all breaches of the peace, and all crimes, are considered as committed against the state, this attorney is sometimes called *state's attorney*.

EXERCISES.

§ 1. What are some of the corporate powers of a county mentioned in a preceding chapter? By whom, in some states, are these powers exercised? What other duties do they perform? By whom, in this state, are the several powers and duties mentioned in this section exercised and performed?

§ 2. Mention the general duties of a county treasurer. Is there a county auditor in this state? By whom, in this state, are the accounts of the county audited? How are county treasurers appointed in this state?

§ 3. What is the business of a register or recorder? By whom, and where, are such instruments recorded in this state?

§ 4. Mention the general duties of a sheriff. How, and for what time are sheriffs elected in this state?

§ 5. What is the duty of coroners? How is an inquest conducted? By whom are inquests held in this state?

§ 6. What are the duties of a county surveyor? Does this office exist in this state?

§ 7. What are the duties of the prosecuting attorney for each county? How is he appointed in this state?

CHAPTER XVII.

Of Town Officers; and their Powers and Duties.

§ 1. The principal officers generally elected in towns are the following: one or more persons who have the general management of town affairs, called selectmen, or trustees, or

supervisors, or by some other name corresponding to the nature of their duties; a town clerk; one or more assessors; one or more overseers of highways; overseers of the poor; officers to manage school affairs; constables; collectors of taxes; treasurer; fence viewers; pound keepers, &c. In some states there are also sealers of weights and measures; persons to measure and inspect wood, lumber, bark, and other commodities.

§ 2. The officers first named are differently styled in different states. In the New England states, there are at least three of these officers in each town, (in no state more than nine in a town,) and are called *selectmen.* In Ohio, and perhaps a few other states, they are called *trustees* of *townships,* and are three in number. In New York and Michigan, there is in each town but one such officer, called *supervisor.* In some states their powers and duties are more extensive than in others. They have power to lay out roads, and lay out and alter road districts; and to do certain acts relating to roads, bridges, taxes, common schools, the support of the poor, &c., and to examine and settle all demands against the town. In some of the states, however, some of these duties are in whole or in part performed by other officers.

§ 3. The *town clerk* keeps the records, books, and papers of the town; records in a book the proceedings of town meetings, and the names of the officers elected at the town meetings; and such other papers as are required by law to be recorded. In some states, deeds and other conveyances are recorded by the clerks of towns.

§ 4. The duties of *assessors* and *collectors* relate to the assessment and collection of taxes, and are described in another chapter.

§ 5. Each town is divided by the proper officers into as many road districts as may be judged convenient; and a person residing in each such district is chosen, called *overseer* or *supervisor* or *surveyor of highways,* whose duty it is to repair and keep in order the roads in his district. In some states, a tax is laid and collected, sufficient to keep in repair the highways, each person assessed being allowed to perform labor or furnish materials to the amount of his tax. In other states, road taxes are ordinarily assessed upon the citizens in

days' labor, according to the value of their property; every man, however, being assessed at least one day for his head, which is called a *poll-tax*. Persons not wishing to labor, may pay an equivalent in money, which is called *commuting*.

§ 6. The *town treasurer* receives all moneys belonging to the town, and pays out the same as they may be wanted for town purposes, and accounts yearly to the proper officers. This office does not exist in all the states.

§ 7. It is the duty of *overseers of the poor* to provide for the support of all poor and indigent persons belonging to the town, who need relief, and have no near relations who are able to support them.

§ 8. The principal duties of a *constable* are, to serve all processes issued by justices of the peace in suits at law for collecting debts and for arresting persons charged with crimes.

§ 9. The general duties of other town officers are indicated by their names, and will not be described in this place.

EXERCISES

§ 1. What officers are usually elected in towns? Are all these elected in the towns of this state

§ 2. Mention the names and the general duties of the officers who have the supervision of town affairs. What are they called in this state?

§ 3. Mention the principal duties of town clerk.

§ 4. To what business do the duties of assessors and collectors relate?

§ 5. By what officers are the roads kept in repair? How are road taxes usually assessed? What is it to *commute*?

§ 6. What is the duty of a town treasurer? Is there one in each of the towns of this state?

§ 7. State the duty of overseers of the poor. Are there county poor houses in this state?

§ 8. State the general duties of a constable.

CHAPTER XVIII.

Of the Government of Cities and Villages.

§ 1. Cities and villages have governments peculiar to themselves. It is evident that places containing a large population, need a different government from that of ordinary towns or townships. Many of the laws regulating the affairs of towns sparsely inhabited, are not adapted to a place where many thousand persons are compactly settled. Besides, the electors in such a place would be too numerous to meet in a single assembly for the election of officers, or for other town purposes. Whenever, therefore, the inhabitants of any place become so numerous as to require a city government, they apply to the legislature for an act incorporating them into a city.

§ 2. The act or law of incorporation is usually called a *charter*. This word is from the Latin, *charta*, which means paper. The instrument of writing by which the king granted privileges to individuals or corporations, were written on paper or parchment, and called charters. Many such grants were made to the people of the colonies while subject to Great Britain. Hence the use of the word here, which is now applied to an act of the legislature conferring privileges upon cities and villages, and certain other corporations.

§ 3. The chief executive officer of a city is a *mayor*. A city is divided into wards of convenient size, in each of which are chosen one or more *aldermen*, (usually two,) and such other officers as are named in the charter. The mayor and aldermen constitute the *common council*, which is a kind of legislature, having the power to pass such laws and ordinances, and make such orders and regulations, as the government of the city requires. The mayor presides in meetings of the common council, and performs certain judicial, and numerous other duties. There are also elected in the several wards, assessors, constables, collectors, and other necessary officers, whose duties in their respective wards are similar to those of like named officers in country towns. Until within

a few years, mayors in many cities were, and it is believed in some they still are, appointed by the common council.

§ 4. It must not be supposed, however, that the people in cities are wholly governed by laws made by the common council. Most of the laws made by the state legislature have the same effect in cities as elsewhere, but there are additional laws made by these local legislatures. For example: The laws of the state require that taxes be assessed and levied upon the property of the people of the state, to pay the public expenses; and the people of the cities are required to contribute an equal proportion of the same; but the city authorities may impose and collect additional taxes for city purposes.

§ 5. In cities there are also courts of justice other than those which are established by the constitution or general laws of the state. A court for the trial of persons guilty of disturbing the peace, and of such minor offences generally as are punished by imprisonment in the county jail, exists in cities, and is called a *police court*. It is held by a *police justice*, who is either elected by the people or appointed in such manner as the law prescribes. In some of the larger cities, there are courts of *civil* as well as criminal jurisdiction different from those which are common to counties generally.

§ 6. The government of incorporated villages is not in all respects like that of cities. The chief executive officer of such villages is in some states called a *president*. The village is not divided into wards, the number of inhabitants being generally too small to render such division necessary. Instead of a board of aldermen, there is a *board of trustees* who exercise similar powers. The president of a village is usually chosen by the trustees from their number.

EXERCISES.

§ 1. For what reasons do cities require different governments from towns? By what authority are cities incorporated? Name the cities in this state.

§ 2. Define charter. Mention the origin and present use of the word.

§ 3. What are the principal officers in a city government? What are their general duties?

§ 4. Are the inhabitants of cities subject to the general laws of the state?

§ 5. What are the nature and powers of a police court?

§ 6. Mention some points of difference between the government of cities and villages.

CHAPTER XIX.

Of the Assessment and Collection of Taxes.

§ 1. It appears from the foregoing chapter, that to transact the business of the state, requires the employment of a great number of persons; and consequently, that the amount of money paid out every year to all these officers must also be very great. As no government can be maintained without expense, and as every person is in some way benefited by the government, it is the duty of all who are able, to contribute towards its support. Every government must therefore have the power to provide the means of defraying its expenses. This is done chiefly by taxation; the money which the citizens are required to pay, is called a tax. Taxes are assessed and levied principally upon the property of the citizens.

§ 2. All lands, and all personal property are subject to taxation, except public property; school-houses and meeting-houses, with the land attached to them; burial-grounds; and the property of literary and charitable institutions: these several kinds of property being usually exempted from taxation. *Lands, real property*, and *real estate*, have the same

meaning, and include land, with all buildings and other articles erected or growing thereon. *Personal estate*, or *personal property*, includes all household furniture, money, goods, chattels, and debts due from solvent debtors.

§ 3. As the amount of tax which each person is to pay is in proportion to the value of his property, the first thing to be done is to value the property of every person in the town. This is done by the assessor or assessors, who pass through the town, at the time required by law, and set down in their assessment roll the names of all the taxable inhabitants, and the estimated value of the property of each, real and personal. If mistakes are made in taking the value of property, they are corrected in some way prescribed by law. Returns of the names of the owners of property and of the value of the same, are made to the proper county officer or officers, who cause the tax list for each town to be made out, and order the taxes to be collected.

§ 4. In some states, every person liable to taxation is himself required to furnish a list of all his taxable property, printed blank lists having been previously distributed among the taxable inhabitants for this purpose. To secure accuracy in the lists, the assessors (called also *listers*) may require persons to make oath that they have made a true statement of their property, real and personal, and of its estimated value. In states where the polls of the tax payers are assessed, these also are set down in the lists at such sums as the law directs to be affixed to each poll.

§ 5. Before a tax list can be made out, it must be known what amount is to be collected in each town. The amount is made up of three parts: first, the sum wanted to defray the expenses of the town; secondly, its share of the county expenses; and thirdly, its proportion of the expenses of the state government, or of what is to be raised for state purposes.

§ 6. The apportionment of the state and county expenses among the several towns, is made according to the amount of property in each as valued by the assessors. The state auditor or comptroller, having received from the several counties returns of the aggregate valuation of the property of each county, is enabled to apportion to each its quota of

the amount to be raised for state purposes. To each county's share of the state expenses is added the sum to be raised for county purposes, and the amount is apportioned among the towns. Then adding to each town's share of the county and state expenses, the amount to be raised for town purposes, gives the amount to be collected in the town.

§ 7. Having thus ascertained the sum to be raised in each town, the county officers whose duty it is, cause a tax list to be made out, containing the name of all taxable persons in the town, and the amount of each person's tax opposite his name. The tax list of each town is then signed by the proper persons, and put into the hands of the collectors of each town, with a warrant ordering the same to be collected.

§ 8. In some states, town, county, and state taxes are, or may be collected separately, and whenever they shall be ordered by the proper authorities. In other states, however, the whole amount to be raised for state, county, and town purposes, for the year, is made out in a single rate bill. The money collected for county and state purposes is paid to the county treasurer, who pays to the state treasurer the amount of the state tax; and the remainder is applied to the payment of the county expenses. And the amount collected for town purposes is paid to such persons in the town as are by law authorized to receive the same.

EXERCISES.

§ 1. By what means is a government maintained? Define tax. Upon what are taxes chiefly levied?

§ 2. What property is exempt from taxation? Define real estate, and personal estate.

§ 3. By whom, and how, is the valuation of property taken?

§ 4. In what other manner are lists of persons and property taken? Which of these modes is practised in this state?

CHAPTER XX.

Canals, Rail Roads, &c.

§ 1. The grand object of a good government is to promote the happiness and welfare of its citizens. The whole duty of the government is not done when it protects men in the enjoyment of life and the fruits of their labor. It should extend farther, and make provision for improving the condition of the people, especially the less favored portions of them. As all must contribute to the support of the government from what they acquire by their labor, the government ought to do all it can to render the labor of all equally profitable.

§ 2. But the people of a large state do not all possess equal advantages. He who resides near navigable waters and good roads, is better rewarded for his labor than others who reside at a greater distance from them. A farm lying near a market town may possess double the value of another of equal size and fertility, in a distant part of the state, as a large portion of the products of the latter must be consumed in transporting them to market. So also they who reside far in the country, must pay the merchants higher prices for their wares and merchandise to remunerate them for the additional cost of their transportation. Hence the necessity of good roads, canals, or other means of facilitating intercourse between distant portions of the state.

§ 3. Among the works of public utility, canals are perhaps the most useful, and are to be preferred wherever their construction is practicable. *Canals* are sometimes constructed by incorporated canal companies, but generally these works, especially those of considerable magnitude, are constructed by the state, and are the property of the state. Although there are some states in which there are no canals of the latter description, it may be both interesting and useful to young persons to know how so important a state work is accomplished.

§ 4. The legislature of a state has power to raise the

money necessary to make a canal, by levying a tax upon the property of the citizens; but it would impose too heavy a burden upon the people to compel them to pay so large a sum within the time in which the work is to be done. When, therefore, a great work of this kind is to be undertaken by the state, the law authorizing the work provides a *fund* to be set apart for this purpose. Canal funds consist usually of such grants and appropriations of lands, property and moneys, as may be made by the legislature. But as the income of such fund is insufficient, the state borrows money to prosecute the work. This money is borrowed for a long term of years, and is to be repaid by the income of the canal fund, and by the proceeds of tolls collected on the canal when completed. If these are insufficient, the deficiency is supplied by a resort to taxation. The original cost of the Erie canal in the state of New York, was wholly repaid by the revenue arising from tolls and from the canal fund, without the necessity of taxation.

§ 5. The business of borrowing the money is done, on the part of the state, by persons duly authorized, who give for the money borrowed the bonds of the state, which are written promises to pay the money at the time specified, with interest at the rate agreed on; the interest generally to be paid semi-annually. These bonds are usually given in sums of $1,000 each. The debts of a state thus increased by the issuing of bonds, are called *state stocks*, as the capital or stock required to construct any state work, is obtained by the sale of these bonds. These bonds, like the certificates of stock in a rail-road or turnpike company, are transferable as promissory notes, and constitute an important article of speculation.

§ 6. These stocks are taken by men who have large sums of money to lend, and who consider state stocks good security; because, if the state has no other means of redeeming its bonds, the legislature has power to pass a law authorizing the money to be raised by a tax upon the people. Almost every state is thus indebted, not only to American capitalists, but to those of European countries, whence many millions have been sent to the United States to purchase state stocks.

§ 7. Officers are appointed according to law to manage

the canal fund, and others to superintend the canals. There are also officers at suitable distances along the canals to collect the tolls, which are charges paid by the master or owner of boats for the use of the canal.

§ 8. The states of New York, Pennsylvania, Ohio, and some other western states, have prosecuted the canal enterprise on a large scale. And although large debts have been incurred by the construction of these canals, the benefits derived from them more than compensate for the vast expense of their construction.

§ 9. *Rail-roads* are constructed by companies incorporated for that purpose. The necessity for an act of incorporation is readily seen. Rail-roads pass through the lands of private individuals; and without the authority of law, the land of no person can be taken for such purpose; nor can a law authorize it to be so taken unless the work be one of public utility; nor even in such case, unless compensation be made to the owner for his land; for it is declared by the constitutions of the several states, and by the constitution of the United States, which is superior to all other constitutions and laws, that "private property shall not be taken for public use without just compensation."

§ 10. If, therefore, the legislature deem such road to be of public utility, they incorporate the company with the requisite powers to construct the road, on making compensation for the land, the value of which is to be estimated in such manner as the law prescribes. The law also prescribes the manner in which the general affairs of the road are to be conducted.

§ 11. The amount of capital to be employed by the company, is mentioned in the act, and is raised in this way: The amount of capital, or stock, is divided into shares of $50 or $100 each. Persons wishing to invest money in the road, subscribe the number of shares they will respectively take. When all the shares are thus sold, and the money paid in, the company is ready to proceed to the construction of the road. The owners of these shares are called *stockholders*, who choose from among themselves such number of *directors* as the act of incorporation authorizes. The directors elect from their number a *president*.

§ 12. A person buying shares, receives a certificate signed by the proper officers, stating the number of shares he has purchased. The holder of these certificates, if he wishes to make some other use of the money he has invested in the business, may sell his stock to some other person, to whom he passes his certificate, which is evidence of the amount of stock so purchased. Thus these certificates are bought and sold as promissory notes.

§ 13. Stockholders depend, for the reimbursement of their capital, upon the money to be received for the transportation of passengers and freight. Such portion of the income of the road as remains after paying all expenses of running and repairs, is divided semi-annually among the stockholders. Hence the sums thus divided are called *dividends*. The returns from some roads are so large as to make the investment a profitable one; so that the holder of shares is enabled to sell them at a profit. When shares in the stock of any institution are bought and sold at their nominal value, stocks are said to be at *par*. If above or below the nominal value, they are said to be above or below par. In large commercial cities, as New York, Boston, and Philadelphia, the purchase and sale of stocks in rail-roads, banks, insurance companies, &c., is a regular and extensive business of capitalists.

EXERCISES.

§ 1. How far do the obligations of a state to its citizens extend?

§ 2. In what does an essential inequality among the citizens of a state consist? By what means may this inequality be diminished?

§ 3. By what authority are canals constructed? Are there any canals in this state? If so, by whom are they constructed?

§ 4, 5. Describe the manner in which a state undertakes and prosecutes the construction of a canal.

§ 6. By whom are state stocks purchased? On what does the security to owners of state stocks depend?

§ 7. Which states are most distinguished for their canals?

§ 8, 9. By what authority are rail-roads constructed? Why is an act of incorporation necessary? What rail-roads, if any, are there in this state?

§ 10. How is the capital stock of a rail-road raised? What officers has a rail-road company?

§ 11. What quality or property has a certificate of rail-road stock?

§ 12. What are dividends? What is meant by stocks being par?

CHAPTER XXI.

Education.—School Fund, Schools, &c.

§ 1. The happiness and prosperity of a people depend essentially upon their education. In many of the eastern countries, the people are degraded and miserable. This is owing to their ignorance. In some of these countries, Turkey for example, the people are governed by a despot, who rules over them with great rigor; in others, as in some of the African nations, there can scarcely be said to be any government at all. Such is their ignorance, that they know not that there could be any improvement in their condition; consequently, they could not, if they desired, govern themselves as the people of this country do. It is only where the people are well educated, that a free government can be maintained.

§ 2. Hence, if we would be a well governed and happy people, the advantages of education must be enjoyed by the mass of citizens. But there are, in every community, those who have not the means of paying for the instruction of their children: it is therefore the duty of the government to provide the means for promoting the general diffusion of useful knowledge. The state governments have accordingly adopted systems of education, by which the children and youth of all classes may be instructed.

§ 3. But the states do not all provide these means in the same manner, nor to the same extent. In most of them the

schools are supported only in part, in a few of them wholly, at the public expense. In some states a fund has been provided, the income of which is annually applied to this object. A *fund*, in general, is a sum of money used for carrying on business of any kind. The money, or capital stock, which a merchant employs in trade, is a fund. So the money or other property of the state which is set apart for defraying the public expenses, is called a fund. Funds are thus provided for various purposes; such as the construction of canals, roads, and other public improvements. The interest of these funds, and all other income to the state, are called the *revenue*.

§ 4. A school fund is sometimes constituted nearly as follows: The state sets apart for this purpose a portion of its public lands; which are lands belonging to the state as a corporate body, and which may be disposed of for public use, and not the land owned by individual citizens. These lands may be sold; and the money arising from the sales constitutes a part or the whole of the fund; this is loaned to individuals, or to banks, or to the state itself, or is in some other way invested, and the interest of this fund is annually appropriated for school purposes. But the income of this fund in many states furnishes but a small part of what is needed for this object. In such cases, a farther sum may be voted by the people of each town to be raised every year for this purpose; or as is the case in some states, a certain sum is annually appropriated out of the state treasury. Or, as in Massachusetts, the whole of the school expenses is raised by a tax upon the citizens.

§ 5. Provision for educational purposes in many of the new states, was made at an early period by the Congress of the United States. While the land now embraced within these states, was the property of the United States, and before a large portion of it was inhabited, or even surveyed, Congress passed a law, designating a certain tract or section of land in each township, to be set apart for purposes of education. In Ohio, for example, about one thirty-sixth part of the lands of the state is public property set apart for these purposes; and it is believed all the North Western States are embraced in the same or a similar provision. These lands

are in charge of the proper town officers, by whom they are disposed of, and the proceeds applied to the support of common schools in the town.

§ 6. Besides the permanent funds described in the preceding sections, a large addition was made some years ago to the school funds of some of the states, by appropriations from the United States' revenue fund. In 1837, there had accumulated in the treasury of the United States, more than thirty-seven millions of dollars of revenue above what was required to defray the expenses of the general government. This surplus revenue, not being wanted for government purposes, was distributed among the several states, to be kept by them until called for by congress. From its being deposited with the states, it is sometimes called the United States *deposit fund*.

§ 7. School moneys coming from the state treasury or state fund, are usually apportioned among the several counties, towns, and districts, according to the number of children in each; and each town's share thus received is added to the amount raised in the town by taxation, or derived from its school lands.

§ 8. Each town is divided into small districts of territory, each embracing about as many inhabitants as can be accommodated by a school; hence they are called *district schools*. They are also called *common schools* from their being supported by a common fund, and designed for the *common* benefit. A meeting is held annually in each district for the election of officers. One or more (usually three) called *trustees* or *directors* are chosen to manage the affairs of the district; also a *district clerk* to record the proceedings of all district meetings; and a collector to collect taxes assessed upon the inhabitants for building and repairing school houses, and all rate bills for the payment of teachers.

§ 9. The highest common school officer is the *state superintendent of common schools*. In some states this office is connected with that of secretary of state. The superintendent collects information relating to the schools, the number of children residing in the district, and the number taught, and the amount paid for tuition; the number of school-houses, and the amount expended from year to year in erect-

ing school-houses; and other matters in reference to the operations and effects of the common school system; and where there is no other officer whose duty it is, the superintendent also distributes the money arising from the state funds among the several counties, apportioning it according to the number of inhabitants, or the number of children in each. He reports annually to the legislature the information he has collected, and suggests such improvements as he thinks ought to be made.

§ 10. There is in each county an officer who receives from the state superintendent the money apportioned to his county, and apportions the same among the several towns of the county. He also reports to the state superintendent the number of children in the county; and performs such other duties as the law requires. In some states there is no connty school officer. Returns are made from the town officers directly to the state officers, from whom moneys are drawn by the town officers.

§ 11. In the towns there are officers to visit schools, examine teachers, apportion money among the districts, &c., and to take lists of the number of children in each district, and report the same to the county officer. In some states there is a county board of examiners.

EXERCISES.

§ 1. What are the general advantages of education

§ 2. What provision ought to be made for educational purposes? Is such provision made in the states generally?

§ 3. To what extent? Define fund. Define revenue.

§ 4. How are school funds constituted? How are they disposed of or invested? Are they sufficient to support the schools? What provision is made in this state for this purpose?

§ 5. How have schools in certain new states been provided for?

§ 6. From what particular source were the means of education increased in 1837? Can you tell from what source, chiefly, the general government derived this surplus revenue?

§ 7. According to what rule is the public money apportioned?

§ 8. Into what divisions is a town made? Why are schools usually called common schools? What officers are elected in districts? Are they the same in this state?

§ 9. What is the highest school officer of the state called? Mention his general duties? Is there a state superintendent in this state?

§ 10. Are there in this state any county school officers?

§ 11. What duties relating to schools are performed by officers in towns?

CHAPTER XXII.

Support of the Poor; Idiots and Lunatics, &c.

§ 1. It is the duty of every government to provide for the support of persons who, by misfortune or otherwise, have been reduced to a state of poverty, and who are unable to support themselves. Such provision has been made in this country, and to such extent, that poor persons are not compelled to beg for the means of support.

§ 2. There are in every town one or more *overseers of the poor*, whose special duty it is, when applied to for the relief of poor and indigent persons, to provide for their support. If such persons have a legal settlement in the town, they are supported at the expense of the town. In some states, the poor are removed from the towns in which they belong, to the poor house, in such counties as have a poor house, to be there supported; the expense of their support being charged to the towns from which they were received. Persons who are properly county paupers, are supported at the expense of the county.

§ 3. Not every person who is unable to maintain himself is supported at the public expense. If a poor person has near relatives, they must support him. In the state of New York, such person must be supported by his father, if he has a father who is able; if not, his children must support

him; and if he has no children, or none who are able, then the mother. If neither of such relatives alone is able to support the poor person, such relative must pay a part of the expense; or any two or more of them may be made to pay the whole or a part of the expense of maintaing such poor person, according to their ability Such, it is presumed, is substantially the law in other states.

§ 4. When relatives neglect or refuse to relieve and maintain their poor friends as required by law, the overseers of the poor may apply to the judges of the county court, or to such other officers as the law may designate, for an order to compel such relief.

§ 5. Provision has also been made for that most unfortunate class of persons, *idiots* and *lunatics*. An idiot is one that is born destitute of common sense, usually called a natural fool. Idiots who are poor, may be provided for as other paupers are. A lunatic, or an insane person, is one who has possessed his reason, but has been suddenly deprived of it. It was formerly supposed that this disease was produced by the influence of the moon. Hence it is called *lunacy*, from *luna*, the Latin word for moon.

§ 6. Persons, lunatic or insane, are, or may be, removed to a Lunatic Asylum, where they are to receive medical and other treatment for their disease. If a person is found to be incurable, he is discharged and otherwise provided for. If he is not a pauper, his property may be placed in the care of a guardian, who is to see that it is properly applied to the maintenance of the person and his family. If he recovers his reason, his property is restored to him. If he is a pauper, the expense of his support at the Asylum is paid by the town or county to which he belongs.

§ 7. Institutions of this kind have been established in many of the states. Their establishment has been dictated by genuine, enlightened philanthropy. From the published reports of these institutions, it appears that they have been eminently useful. A large proportion of those who have been received into them have been either entirely cured or greatly benefited. The Asylum buildings are erected at the expense of the state; and the affairs of the institution are managed by persons appointed for that purpose.

§ 8. Another class of unfortunate persons for whose benefit the public bounty has been bestowed, are the *deaf* and *dumb* and the *blind*. Institutions for the instruction of such persons have been established in some states, and are sustained in part, at least, by appropriations from the state treasury. Among the most celebrated institutions of this kind in the United States, are those in the city of Hartford in the state of Connecticut, and in the city of New York. Many persons of both the descriptions above mentioned, have come from these institutions with high attainments in some of the more useful branches of education.

EXERCISES.

§ 1. What are the principal causes of poverty? Is poverty more frequently caused by misfortune? or by idleness and and vice?

§ 2. By whom, and how, are poor persons provided for?

§ 3. Mention the order in which the relatives of a poor person become liable for his support.

§ 4. How may relief be compelled?

§ 5. Who are idiots? How are they provided for?

§ 6. Who are lunatics? How are they treated?

§ 7. Is there such an institution in this state?

§ 8. Are deaf and dumb persons capable of learning? Do you know any thing of the manner in which they are taught? Can you imagine how a blind pupil learns to read?

CHAPTER XXIII.

Highways and Bridges; Fences; Strays; Pounds, &c.

§ 1. *Highways and bridges* are under the care and supervision of town officers, whose powers and duties relating to laying out and repairing highways have been described in a preceding chapter. (See Town Officers.) When money is wanted to build a bridge, the expense of which is too great

to be borne by the inhabitants of the road district in which such bridge is to be built, the inhabitants of the town assembled in town-meeting, may order the money to be raised by a tax upon the taxable inhabitants of the town.

§ 2. If damage is sustained by any person, his team, or his carriage, in consequence of any material deficiency in a highway or bridge, either the town, or the officers of the town who have the care of highways and bridges, are liable for damage to the person injured. If the defective road or bridge is owned by an incorporated company, the company is liable.

§ 3. *Fences.* The laws of each state determine what shall be deemed a good and sufficient fence, and prescribe such other rules and regulations concerning fences as may be necessary, except so far as the inhabitants of the several towns are authorized by law to make their own regulations. The laws of the different states are not uniform on this subject. The provisions contained in the following sections, however, will, it is believed, be found to exist in the states generally.

§ 4. Each owner of adjoining lands must make and maintain a just proportion of the division-fence between them, unless one of them shall choose to let his land lie open or unoccupied; but if he shall afterwards enclose and occupy it, he must refund to the other a just proportion of the value of the fence, or build his proportion. Either party wishing to remove his part of a division-fence, and lay his fields open to common, must give to the other notice, a specified time previous to the removal, that he intends to remove such fence.

§ 5. If a person does not keep a lawful fence, he cannot recover payment for damages done by beasts lawfully running in the adjoining field. If either party neglects to keep his part of a division-fence in good repair, he is liable to pay for the damage the other shall sustain in consequence of such neglect. If a person has land adjoining a highway, he can not recover damage done by cattle lawfully running on such highway, unless his fence be a good and sufficient fence. But where there is no positive law on the subject, the owner of land is not obliged to fence against cattle in the highways;

because, independent of any statute regulation, no person has a right to use the highway but the right of passage; and the owner of beasts running at large is liable for damage done by them upon land lying open to the highway.

§ 6. The duties of *fence-viewers* relate chiefly to the settling of disputes between the owners of adjoining lands concerning division-fences; the examining or viewing of fences when damage has been done by trespassing animals; and the estimation of damages in such cases.

§ 7. *Strays.* A person taking up a stray animal, is required to cause a description thereof to be recorded by the town clerk, and in some states, if the animal exceeds a certain amount in value, the description is to be published, by posting the same in public places, or in some newspaper in or near the town in which the stray is found. If, after due publication according to law, the owner shall not appear and prove his title to the animal, and pay all lawful charges for advertising and keeping the same within the time fixed by law, the stray may be sold at public auction; and the avails, after paying all expenses, are paid into the town treasury for the use of the owner. If the owner shall not appear within a certain time after the sale, the town will have a right to the money.

§ 8. The finder of lost property other than stray beasts, is, in some states, required to describe, advertise, and sell the same, in the same manner as stray animals are advertised and sold; and the proceeds of the sale are in like manner to be disposed of. Persons finding stray beasts or lost property, and neglecting to advertise the same according to law, are not entitled to remuneration for any expenses which may have been incurred.

§ 9. A *pound* is a small enclosure surrounded by a strong fence, in which cattle or other beasts are confined when taken in trespassing, or running at large in violation of law. A *pound-keeper*, elected in each town at the annual town-meeting, has the charge of the pound in such town, and of all beasts brought to him to be confined. He is required to keep and feed such animals during the time of their confinement, at the expense of the owner. If the owner does not appear and take away his animals and pay the charges for

impounding within a specified time, they may be sold to pay the damage sustained, and the charges for impounding and keeping them.

For a more particular description of the manner of impounding animals, of estimating damages, and of advertising and selling the animals, in any particular state, reference must be had to the laws of such state.

EXERCISES.

§ 2. How is redress obtained for injuries sustained in consequence of defective roads and bridges?

§ 3. What is deemed, in this state, a good and sufficient fence?

§ 4. What is the law, generally, relative to maintaining and removing division fences?

§ 5. In what cases are persons liable for damage, in consequence of deficient fences?

§ 6. What are the general duties of fence-viewers?

§ 7. What general regulations exist in regard to stray animals? Describe particularly the regulations concerning strays in this state?

§ 8. Describe the general duties of a pound-keeper. What particular regulations in regard to impounding animals exist in this state?

CHAPTER XXIV.

Regulations concerning Taverns and Groceries; Weights and Measures; Auctions; Peddlers; Shows; Observance of the Sabbath, &c.

§ 1. No person may keep a tavern without a license from some person or persons authorized by law to grant the same. In some states there are persons in each town who have power to grant licenses; in others, this power is vested in the county court. A tavern-keeper gives a bond, with a surety, in such sum as the law requires, that he will keep an

orderly house ; and the officers granting the license must be satisfied that he is of a good character, and has the necessary accommodations for travelers, and that a tavern for their accommodation is necessary at the place where it is to be kept.

§ 2. A tavern license usually includes a license to sell spirituous liquors ; but they may be sold only in small quantities, and for no other purpose than to be drank in the tavern where they are sold, or on the premises. Licenses to sell spirituous liquors by retail are also granted to grocers and keepers of victualing-houses ; but *not* to be drank in their shops or on their premises. Persons other than those duly licensed, may not sell spirituous liquors in quantities less than a certain number of gallons.

§ 3. The sums to be paid by tavern-keepers and retailers for licenses, and the amount of fines imposed for violations of the law, are fixed by the laws of each state. Money received for licenses and penalties is paid into the treasury of the town or county, for the use of the same.

§ 4. Laws have within a few years been enacted in a few of the states, prohibiting entirely the sale of all intoxicating liquors, except to be used as medicine, and for mechanical purposes. In some of these states, however, these prohibitory laws have been repealed.

§ 5. *Weights and Measures.* To secure a uniform standard throughout a state, such standard must be established by law. It is therefore provided, that an accurate standard of the several weights and measures in common use be kept by the state sealer, who is the secretary of state, or the state treasurer, or some other person designated by law. The state sealer furnishes a copy of the original standard to each county sealer, at the expense of the county ; and the county sealer furnishes each town sealer with copies of the county standard, at the expense of the town. It is usually provided, that within a certain number of years the town sealers shall compare the copies in their possession with the standard in the office of the county sealer.

§ 6. When weights and measures are brought to the town sealer, he compares them with the copy in his possession ; and if they are not correct, he makes them conform to the lawful standard, and seals and marks them. If a person

uses a weight or measure that does not agree with the standard, and by which any purchaser suffers injury, the party injured may sue the offender, and recover damage, which is generally fixed by law at two or three times the amount of damage actually sustained.

§ 7. Laws also exist in the several states, fixing the measure of toll to be taken by *millers* for grinding the different kinds of grain; laws regulating the sale of goods by auction, and for the appointment of *auctioneers;* for the licensing of *peddlers;* for the regulation of public exhibitions and licensing *showmen.*

§ 8. The Christian *Sabbath* is recognized by the government of every state, as a religious institution of Divine appointment; and, being a day specially set apart for the public and private worship of God, laws for its observance have been enacted in the several states, not only in obedience to Divine authority, but also with a view of securing to the citizens the free enjoyment of the rights of conscience and religious worship.

§ 9. The law forbids all sporting, shooting, hunting, and pastimes on the day called *Sunday;* and all traveling and servile labor, except such as necessity and charity require. Nor may persons expose for sale any goods, wares, fruits, or other property on that day, except certain articles designated by law. Persons who uniformly keep Saturday as holy time, are not forbidden to labor on Sunday, provided they do not disturb others in its observance.

EXERCISES.

§ 1. By what authority are tavern-keepers and retailers licensed? What bond is required of an inn-keeper?

§ 2. What restraints are imposed by licenses in this state?

§ 3. What sums are paid for licenses in this state? and what is the measure of fines? To what use are the excise and fine moneys applied in this state? Define excise.

§ 4. Can you name any state in which the retailing of spirituous liquors is prohibited?

§ 5. How is a uniform standard of weights and measures secured?

§ 6. To what penalty is a person liable for using unsealed weights or measures?

§ 7. What regulations exist in this state in regard to millers? auctioneers? pedlers? showmen?

§ 8. For what reasons is the observance of Sunday required? What is forbidden on that day?

CHAPTER XXV.

Of the Militia.

§ 1. To defend a country against attacks from foreign enemies, and to put down insurrections and rebellion against the government by its own citizens, it is the practice of governments to keep their respective countries prepared for events of this kind. For this purpose, men are required to meet every year on certain days for instruction in the art of war. This is usually called *training.*

§ 2. All white male citizens of the United States, between the ages of eighteen and forty-five years, are liable to do military duty in the states in which they reside, except such persons as are exempt by the laws of the state and of the United States. Persons exempt by the laws of the state, are usually the following: Ministers of the gospel; commissioned officers of the militia having served a certain number of years; members of uniformed companies having served for a specified term; members of fire companies; certain public officers while in office; and in some states, teachers and students of colleges, academies and common schools; and a few others.

§ 3. Besides these, there are persons exempted by the laws of the United States. They are the vice-president and all executive and judicial officers of the government of the United States; members of congress and its officers; custom-house officers and their clerks; post-officers and drivers of mail stages; ferry-men employed at ferries on post roads; pilots and mariners.

§ 4. It will be seen that the president of the United States,

and the governor of the state, are not mentioned among the persons who are free from military duty. By the constitution of the United States, the president is commander-in-chief of the army and navy of the United States: and of the militia of the several states also, when called out into actual service; and by the constitution of the state, the governor is the commander-in-chief of the militia of the state.

§ 5. Persons who refuse to appear at military parades after having been duly warned, are afterwards tried by a military court called *court martial*, consisting of three military officers; and if upon trial such persons cannot show that they were necessarily absent, they are fined in such sum as the law prescribes. And they are also liable to fine if they attend, but are not equipped as the law requires. For the trial of high military officers, courts sometimes consist of more than three members.

§ 6. The highest militia officer next in rank to the governor, is the *adjutant-general* of the state; who keeps a list of all the higher commissioned officers, containing the date of their commissions, their rank, the corps they belong to, the division, brigade and regiment, and the places of their residence. He distributes all orders from the commander-in-chief to the several divisions; attends public reviews where the commander-in-chief shall review the militia; and obeys all orders from him relative to carrying into execution the system of military discipline established by law. The adjutant-general is appointed by the governor.

§ 7. There is also a *commissary-general*, who, from the nature of his duties, is properly a military officer. He has the care of the arsenals and magazines, and the articles deposited in them. An *arsenal* is a building in which are kept cannon, muskets, powder, balls and other warlike stores; all of which are to be kept in repair and ready for use. The commissary also furnishes the officers of the militia such articles as they are entitled to receive for the use of their companies.

§ 8. There are persons who, believing all wars to be wrong, can not conscientiously do military duty. As it is the object of our government to secure to every person the liberty of conscience as well as other rights, the constitutions of the

states provide, that those who are averse to bearing arms, may be excused by paying annually a sum of money as an equivalent for the service required by law. But it may well be doubted whether compelling a man to pay money is not itself a violation of the rights of conscience. Hence, in some states, all persons belonging to the society of Friends, usually called Quakers, are exempt without the payment of an equivalent.

§ 9. By the laws of New York and Ohio, the rank and file of the militia in those states are not required to train in time of peace. Persons subject to do military duty, except those connected with the uniformed companies, are enrolled in the militia; and instead of doing duty, they annually pay in New York seventy-five cents, and in Ohio fifty cents, or one day's labor on the highways.

§ 10. Laws abolishing trainings and musters of the great body of the militia, meet with great favor, and for these, among other reasons: first, the militia system produces no material improvement in discipline; secondly, the time spent in these useless exercises, and the money expended for arms and equipments, are burdensome to many citizens; and thirdly, there is no probability of a war at any time, or of any other occurrence, requiring a large portion of the militia to be called into immediate service. The volunteer companies are supposed to be sufficient for any event that is likely to happen.

§ 11. Happily, the practice of settling controversies between nations by war, is growing unpopular in civilized and Christian communities. War is a fearful evil, and ought to be discouraged, and, if possible, avoided. Were governments so disposed, they might in most cases settle their differences peaceably and honorably, as individuals do. If the love of military honor were less encouraged, and the principles of peace duly inculcated, the time would be hastened when "nations shall learn war no more."

EXERCISES.

§ 1. What is the object of a military establishment? Are there not other means equally effective of securing the public peace and safety?

§ 2, 3. What persons are liable to do military duty? Who are exempt?

§ 4. What duties devolve upon the national and state executives?

§ 5. What is a court martial; and what is its business?

§ 6. Mention the general duties of an adjutant-general?

§ 7. What is the business of a commissary-general?

§ 8. What provision is made to excuse persons conscientiously averse to bearing arms? What is liberty of conscience?

§ 9. What peculiarity exists in the militia laws of New York and Ohio?

§ 10. What is your opinion as to the utility of military trainings? Give your reasons.

§ 11. Mention some of the evils of war. By what peaceable means might national controversies usually be settled?

CHAPTER XXVI.

Judicial Department.—Justices' Courts.

§ 1. In the preceding chapters it has been shown how the laws of the state are made, and how the government is administered; and also what are the powers and duties of officers in the legislative and executive departments of the government. There is another class of officers, whose powers and duties remain to be described, called *judicial officers*. The business of judicial officers is to administer justice to the citizens; and when sitting for that purpose they are called a *court*. Sometimes we mean by court, the judges or justices, jurors, and other persons engaged in a trial; but frequently only the judges or justices holding the court are meant.

§ 2. A government without some power to decide disputes, to award justice to the citizens, and punish crime, according to the laws of the state, would be incomplete. It would be improper to allow every man who thinks himself injured to be judge in his own case. Laws would be of little use.

Mankind in general are apt to be partial to themselves; they would therefore be unsafe judges between themselves and others. Besides, only a small portion of the people are sufficiently learned in the law to be judges.

§ 3. Hence, justice is best secured to the citizens by having recourse to the courts for the redress of injuries, and for the punishment of crimes; and that no injustice may be done to any member of the community, constitutions require, that in all cases of crime, however openly the same may have been committed, the offender shall have a fair and impartial trial.

§ 4. There are several kinds of courts in each state. Some are of a higher, others of a lower order: by which is meant, that some have greater jurisdiction than others. In speaking of the jurisdiction of a court, reference is had to its power to pronounce the law. The word *jurisdiction* is composed of two Latin words, *jus*, law, or *juris*, of the law, and *dictio*, speaking; hence juris dictio, a speaking or pronouncing of the law. The jurisdiction of a court therefore means how far, and in what cases, it has power to determine questions in law.

§ 5. Some courts have power only to try civil causes; others have jurisdiction in causes both civil and criminal. Some have jurisdiction in cases arising in any part of the state; others only in cases arising within the county. As most suits at law are tried in justices' courts, and as cases may be carried up from them to the higher courts, we shall begin with the lowest and proceed to the highest.

§ 6. *Justices' Courts.* Justices of the peace are in some states elected by people in the towns, in others they are appointed by the legislature, or by the governor in connection with the senate or some other body of men. Justices of the peace usually have power to try civil causes only, and only those in which a limited sum is sued for. Causes are called *civil*, when money is claimed; *criminal*, when persons are tried for crime. Causes, actions, and suits, though somewhat different in meaning, are words generally used to signify the same thing, meaning prosecutions at law, or lawsuits.

§ 7. The party that sues is called *plaintiff;* the party sued is the *defendant.* Actions may be commenced by the

parties going voluntarily before a justice; but this is seldom done. Suits are generally commenced by *process*, which means a written instrument issued by a justice, enforcing proceedings at law. The process by which a suit is in most cases commenced, is a *summons;* and the action is considered commenced on the day when the summons is delivered to the constable.

§ 8. A summons issued by a justice of the peace, is addressed to a constable of the town, in some states to any constable of the county, commanding him to summon the defendant to appear before the justice on a day and at an hour specified, to answer the plaintiff in a suit, the nature of which is mentioned in the summons.

§ 9. If the defendant is found, the constable serves the summons by reading it; and if the defendant requests it, the constable must give him a copy of it. If he is not found, a copy must be left at his place of abode, with some one of the family of suitable age. The constable returns the summons to the justice, at or before the time named for trial, with an indorsement on the back of it, stating the time it was served, and also whether personally served, or served by copy.

§ 10. Either party may appear in person, or by attorney, that is, another person appointed to answer and act for him. When parties have appeared and answered to their names, they make their pleadings; that is, the plaintiff declares for what he brings his suit; and the defendant declares the nature of what he has to *offset* against the plaintiff's demand; or he pleads that he has paid him, or that he never owed him, as the case may be. These acts of the parties are called *joining issue.*

§ 11. A man's word is not taken as evidence in his own favor in a court of justice: he can not establish a fact without *witnesses.* The justice, therefore, at the request of either party, issues a *subpœna*, which is a writing commanding persons to appear and give evidence. Subpœnas may be served by a constable or other person, who must pay, or offer to pay, the witness the fees allowed by law for one day's attendance, or the witness is not obliged to attend.

§ 12. If a person duly subpœnaed, and whose testimony

is material, does not appear, the justice may issue an attachment, commanding the constable to take and bring the witness before the court; and the witness may be charged with the fees of the constable and justice, or fined in some other way, as the law provides, unless he shall show reasonable cause for not attending. A witness who, without a reasonable excuse, does not appear, or appearing, refuses to testify, may be fined by the justice, and is liable also to pay the damage sustained by the party in whose behalf he was subpœnaed.

§ 13. At the time of trial, the justice proceeds to try the issue. The witnesses are sworn to testify truly to what they know; and after hearing the proof on both sides, the justice decides according to law and equity, as the right of the case may appear. If a defendant does not appear at the time of trial, the justice may hear the proofs and allegations of the plaintiff, and determine the case according to what shall be made to appear by that party alone.

§ 14. If the demands of the parties are unequal, the justice enters judgment against the party owing, for the amount due the other, with the costs of suit. *Judgment* is what is adjudged to be due from the one to the other, and always includes the costs, which consist of the fees of the justice, constable and witnesses. If nothing is found to be due the plaintiff, judgment is entered against him for the costs.

§ 15. At the time of joining issue, if the parties, or either of them, for want of material witnesses, or for certain other sufficient reasons, can not safely proceed to trial, the justice may *adjourn*, or put over the trial to a future day.

§ 16. A plaintiff may discontinue or withdraw his action before judgment is rendered; in which case the justice enters judgment of *non-suit*, which means a stoppage of the suit. So also a plaintiff is non-suited for not appearing within the time required by law to appear after the hour appointed to commence the suit, or for some other default or error of proceeding. Or if a trial is had, and it is found that the plaintiff has no cause of action against the defendant, judgment for costs is rendered against the plaintiff.

§ 17. Any person indebted to another and wishing to avoid the expense of a law-suit, may *confess judgment.*

This is done by going before the justice, acknowledging the amount due, and consenting that the justice enter judgment accordingly. In some states, the confession and consent must be in writing and signed by the defendant. The law of the state declares the amount for which judgment may be thus confessed.

EXERCISES.

§ 1. Of what persons is a court constituted?

§ 2. Why are courts of justice necessary?

§ 3. How does the constitution secure justice to offenders?

§ 4 Define jurisdiction.

§ 5. Which is the lowest court in a state?

§ 6. How are justices of the peace elected or appointed in this state? How far does their jurisdiction extend? What is a *civil* action?

§ 7. What is the party that sues called? The other? By what process is a suit ordinarily commenced?

§ 8. What does a summons require? How many days has a defendant in this state in which to answer the plaintiff?

§ 9. How is a summons served?

§ 10. How are the pleadings of parties made? What are these pleadings called?

§ 11. What is a subpœna? How much are the fees of a witness per day in this state?

§ 12. How may the attendance of witnesses be compelled?

§ 13. Can a suit be tried without the appearance of both parties?

§ 14. What is a judgment?

§ 15. In what case may suits be adjourned?

§ 16. In what cases is judgment of non-suit rendered?

§ 17. In what case, and how, is a confession of judgment made? For what amount may judgment be confessed in a justice's court?

CHAPTER XXVII.

Trial by Juries; Collection of Judgments; Appeals.

§ 1. One of the most valuable privileges enjoyed by the people of this country, is the right of trial by jury. A justice, before whom a suit is brought, may be suspected of incompetency, of a want of honesty, or of impartiality. Hence it is not always safe to submit a cause to a justice for decision. That justice, therefore, may as far as possible be secured to all, the constitution guaranties to every person the privilege of having a jury to try a cause to which he is a party. In some states, however, juries are not allowed in suits for sums of small amount in justices' courts.

§ 2. A *jury* is a number of men who sit on a trial, and are sworn to try a matter of fact, and to declare the truth according to evidence. This declaring of the truth is called *verdict*, which means a true saying. A jury in a justice's court consists of six men, all of whom must agree in their verdict.

§ 3. The manner of selecting the jurors is prescribed by the law of the state, and is not the same in all the states. After issue is joined, and before testimony is heard, either party may demand of the justice that the cause be tried by a jury. Whereupon the justice issues a *venire*, which is a writ or precept commanding a constable to summon such number of duly qualified men as the law directs, to appear before the justice to make a jury to try the cause between the parties named in the venire. A greater number than six is usually summoned, from which number the six are drawn who are to constitute the jury. In some states, freeholders only are lawfully qualified to serve as jurors.

§ 4. After hearing the proofs and allegations of the parties, the jurors are put under the charge of a constable, who is sworn to keep them in some convenient place, without meat or drink, except such as the justice may order, till they agree on their verdict, or till discharged by the justice. Nor shall the constable allow any person to speak to them during

such time, nor speak to them himself, except by order of the justice, unless to ask them whether they have agreed on their verdict.

§ 5. When jurors have agreed on their verdict, they publicly deliver it to the justice, who enters it in his docket. If the jurors do not all agree after having been out a reasonable time, the justice may discharge them, and issue a new venire, unless the parties consent that the justice may render judgment on the evidence. Persons summoned as jurors may be fined in the same manner as witnesses, for not appearing, or for refusing to serve.

§ 6. After a judgment has been rendered, it must be carried into effect; that is, the debt or damage, with the costs, must be collected, which is done by a constable. The instrument giving him authority, is issued by the justice, and called an *execution*. The execution commands the constable to take and sell of the goods and chattels of the debtor, and to bring the money for the debt and costs to the justice within the time mentioned in the execution, which is either longer or shorter, according to the amount of the judgment. If no property can be found, and the debtor does not pay, the constable returns the execution to the justice, not satisfied. It is believed the law in most of the states does not, in ordinary cases, authorize a justice of the peace to issue an execution against real estate, but only against the personal property of debtors.

§ 7. If a constable shall, through negligence, fail to collect a judgment as required by the execution, or if he shall neglect to return the execution to the justice within the time mentioned therein, the constable himself and his sureties are liable to pay the amount of the judgment.

§ 8. There are certain articles of personal property which are exempt from execution, and which poor men are allowed to retain for the use and comfort of themselves & their families; such as necessary household furniture, apparel, beds, and the tools or implements of trade. In accordance with the increasing spirit of liberality of the age, the laws in most states have been growing more and more favorable to poor debtors. In New York, for example, a man is allowed to keep a team in addition to the property formerly exempted

from execution; and in Vermont, and perhaps a few other states, a house and lot of limited value are allowed the debtor.

§ 9. The imprisonment of a debtor who is unable to satisfy an execution, has been almost entirely abolished, except in the collection of penalties and forfeitures. And even in most cases of this kind, the delinquent is not confined in jail, but by giving the bail required by law, is entitled to the limits of the jail ground.

§ 10. The foregoing description of the proceedings of a justice's court is that of a prosecution in ordinary cases. But there are other modes of prosecution in certain cases, one of which is by *attachment*. Suits are commenced in this way when it is presumed that the appearance of the defendant would not be secured by a summons. An attachment is a writ directing the property of a debtor to be taken, and kept till a trial can be had and judgment obtained. This mode of proceeding is adopted when the plaintiff has reason to believe that a debtor conceals himself to avoid being prosecuted by summons, or is about to remove his property or himself from the county, or intends in some other way to defraud his creditors.

§ 11. In case of an absent or concealed debtor, the constable leaves a copy of the attachment, with an inventory of the property attached, at the defendant's last place of residence; or, if he had none in the county, the copy and inventory are to be left with the person in whose possession the property is found. If the defendant does not appear on the day of trial, the plaintiff may proceed to prove his demand, and the justice enters judgment for the amount proved to be due, with costs. To satisfy a judgment so taken, the property attached may be sold on execution, as in other cases.

§ 12. *Appeals*. If either party is dissatisfied with a judgment rendered in a justice's court, he may have the cause removed to the county court. In some states, there are certain enumerated cases in which no appeal from a justice's court is allowed. There are different ways of removing causes from the lower courts.

§ 13. When the removal is made by *appeal*, the whole cause is removed; the witnesses again give their testimony;

and the facts are submitted for a rehearing. When a cause is removed by a *writ of error*, the witnesses are not required to attend the trial in the higher court. The substance of the testimony and proceedings before the justice, is produced before the court, and upon this the judges give judgment, as the right of the case may appear. If they decide the judgment of the lower court to be correct, they are said to *affirm* such judgment; but if they find it wrong, they *reverse* it

EXERCISES.

§ 1. Whence was the right of trial by jury introduced into this country? How is it secured to the people?

§ 2. Define jury. What number constitutes a jury in a justice's court?

§ 3. What is a venire? By whom is it issued? Describe the manner of obtaining a jury in this state.

§ 4. Can you tell why juries are kept so closely during their deliberations?

§ 5. What is done if the jurors do not agree?

§ 6. Describe the manner of collecting a judgment. With in how many days are executions to be returned in this state?

§ 7. In what case does a constable become liable?

§ 8. What articles of property are, in this state, exempt from execution?

§ 9. Is imprisonment for debt, in any case, authorized in this state?

§ 10. In what cases are suits commenced by attachment? What power does an attachment have?

§ 11. How is an attachment served?

§ 12. In what different ways are causes removed to the higher courts?

§ 13. In what respect do these modes of removal differ?

CHAPTER XXVIII.

Of Courts other than Justices' Courts

§ 1. There is in every county a court, called *county court*, consisting of one or more judges, elected by the people in a few states, but in most of them appointed either by the legislature or by the governor, with the advice and consent of the senate or a council. In this court are tried civil causes in which are claimed sums of greater amount than a justice of the peace has jurisdiction of, and crimes and misdemeanors committed in the county except those of the highest grade. Also causes removed by appeal or otherwise from a justice's court, are tried in this court.

§ 2. Besides a county court, there are other courts of different names and different jurisdiction in different states. They are called by various names, as *circuit courts, superior courts, supreme courts, &c.* The highest court in a state, is perhaps more frequently called the supreme court. In New York, the highest court, and that beyond which there is no appeal, is called the *court of appeals.*

§ 3. A circuit court seems to derive its name thus: A state is divided into judicial districts, and one of t e judges of the supreme court, or some other judge, goes from county to county, holding a court once a year, or oftener, in each of the counties composing a judicial district. A part of the business of this court is to try appeals from the county court, and such of the higher crimes as a county court has not the power to try. The name of circuit court, however, is not in all states given to a court of this kind.

§ 4. Every county court and every circuit court having similar jurisdiction, has a jury to try issues of fact, and a grand jury. An *issue of fact* is a case in which the *fact* is determined from evidence, whether one party is indebted to another or not; or the fact whether the person charged with crime is guilty or not guilty. It is called issue of fact to distinguish it from an *issue of law*, in which the question to be decided is, what is the *law* in the case, which is done by

the court instead of the jury. This jury is usually called a *petit jury*, as distinguished from a *grand jury*.

§ 5. It is one of the excellencies of our government, that the liberty and lives of the people, as well as their property, are protected by a constitutional provision, securing to every person the right to be tried by a jury of his equals. As liberty and life are more valuable than property, they ought to be most carefully guarded. Hence the constitution of the United States, and the constitutions of the several states, declare, that no person shall be put upon trial, without the previous judgment of a grand jury that he ought to be tried.

§ 6. The manner of selecting and drawing grand and petit jurors, is prescribed by law. A number of judicious men in each town are selected by some person or persons authorized by law to do so, whose names are written on separate pieces of paper, and put into a box in each town, and kept by the town clerk; or, as is the case in some of the states, the names of the persons designated as jurors in the several towns, are sent to the county clerk and by him kept in a box. Previous to the sitting of each court, the requisite number is drawn out of the box, and the persons whose names are thus drawn, are summoned to attend as jurors.

§ 7. A jury to try a cause in these courts always consists of twelve men, and all must agree in a verdict. The number of grand jurors is not the same in all the states; nor is it required that a grand jury shall always consist of a definite number of men in the same state. In New-York, for instance, not less than sixteen, nor more than twenty-three, may act as a grand jury.

§ 8. On the opening of the court, the jurors are sworn to make a true presentment of all things given them in charge. The judge then gives them a charge, and appoints one of their number as foreman; and the jurors retire to a private apartment to attend to their duties.

§ 9. The jurors hear all complaints brought before them, against persons for crimes and breaches of the peace; and examine witnesses who appear to testify; and when it is requested, they have the assistance and advice of the state's attorney. If they think the person complained of ought to be tried, they draw up a writing, in which they charge the

person with the offence of which they think he is guilty. This is called an *indictment.* It is signed by the foreman, endorsed, "a true bill," and carried by the jury into court. Not all the jurors are required to agree in order to an indictment. If the person has not before been arrested, he may now be arrested, to be put upon trial. (See arrest and examination of offenders.)

§ 12. As all crimes are considered as committed against the peace and order of the community, the offender is complained of and tried in the name and in behalf of the people of the state, who are the prosecuting party. The prosecution is managed by the state's attorney for the county, whose appointment and general duties have been mentioned.

EXERCISES.

§ 1. How is a county court constituted? What is the jurisdiction of a county court? What in this state?

§ 2, 3. What other courts are there in this state? How are they constituted? What is their jurisdiction?

§ 4. What is the difference between an issue of fact and an issue of law? By what jury is the former tried?

§ 5. What is the office of a grand jury?

§ 6. Describe the manner of selecting, drawing and summoning grand jurors in this state.

§ 7. What is the number of grand jurors in this state?

§ 8. What is required by a grand juror's oath?

§ 9. How are the deliberations of a grand jury conducted? What is an indictment? How many jurors must agree to an indictment?

§ 10. In whose name are offenders complained of and tried? What officer conducts the prosecution?

CHAPTER XXIX.

Courts of Chancery; Court of Probate; Court for the Trial of Impeachments.

§ 1. A *court of chancery* is in its nature different from all other courts. It is sometimes called a *court of equity*, being designed to enable persons to obtain what is right and equitable, when they cannot obtain the same in courts of law. In ordinary courts a man is not allowed to be a witness for himself; but in this, the parties may be put on oath. In other courts, a person cannot be compelled to do what he has agreed to do; he can only be made to pay damages for not fulfilling his contract; but in a court of chancery a man may, in certain cases, be compelled to fulfill the contract itself.

§ 2. If a debtor has property held in trust for him by another; or has money, notes, or other obligations or debts owing to him; this court may compel him to discover and give up such property to satisfy an execution against him; and it may prevent persons from paying him such debts. It has power also to restrain banks and other corporations and individuals, from doing fraudulent acts; to dissolve corporations; to stop proceedings at law in certain cases; and to do many other things of a like nature, by way of relief, when relief can not otherwise be had.

§ 3. Suits in equity are not commenced as suits *at law*. The plaintiff prepares a bill of complaint, called a *bill in chancery*, the facts in which are sworn to by the plaintiff. The bill, which contains a petition or prayer that the defendant, the party complained of, may be summoned to make answer on oath, is filed with the clerk of the court, who issues a subpœna, commanding the defendant to appear before the court on a day named. A trial may be had on the complaint and answer alone; or witnesses may be introduced by the parties. The case is argued by counsel, and a *decree* is pronounced by the court, which the court has power to carry into effect.

§ 4. Courts of chancery, or courts of equity, separately organized as such, do not, it is believed, exist in any of the states. The power to try suits in equity is exercised by the judges of the common law courts.

§ 5. *Court of Probate.* In each county there is a *judge of probate,* whose duties relate to the proving of wills, and the settling of the estates of persons deceased. A *will* is a writing in which a person directs how his property shall be disposed of after his death. The Latin word *probatus* means proof; hence the application of the word probate to the proving of a will. (See Wills and Testaments.) In the state of New York, this officer is called *surrogate.*

§ 6. *Court of Impeachment.* There is no permanent court by this title. The name is applied to the senate when sitting on a trial of impeachment. An *impeachment* is a charge against a public officer for corrupt conduct in office. If some person should offer a member of the legislature a sum of money or some other advantage, to induce him to vote for or against a proposed law, and such member should so vote; this would be corrupt conduct, for which he might be impeached. And so any officer who, from bad motives, should do a wrong act in discharging the duties of his office, or should commit a crime, would be impeachable. By the constitution, the power to impeach is given to the house of representatives.

§ 7. The mode of commencing a trial of this kind, as prescribed by law, is as follows: The house of representatives makes the charge, and delivers it to the president of the senate, who causes the court to be summoned. The accused is then brought before the court to answer the charge, and is entitled to counsel to assist him. When the issue is joined, the court appoints a time and place for trial. Before the trial commences, the clerk administers to the president of the senate, and the president to the other members, an oath truly to try and determine the charge according to evidence.

§ 8. The trial is conducted as trials are in courts of justice. If two-thirds of the members present concur in a conviction, the accused is convicted; if not, he is acquitted. To *convict* is to prove and determine a person guilty of an

offence. If the person is convicted, the court may remove him from office, or disqualify him from holding any office thereafter, in the state, or both remove and disqualify him; but no other judgment can be pronounced by this court. But if the act committed by the offender is a crime, he may also be indicted, tried, and punished in a court of common law, as any other person.

EXERCISES.

§ 1, 2. What is the object of courts of chancery or equity? Mention some of the powers vested in this court.

§ 3. Describe the commencement and progress of a suit in chancery.

§ 4. By whom are equity powers generally exercised?

§ 5. What is the business of a court of probate? What is a will?

§ 6. What is the business of a court of impeachment? Of whom is this court composed? For what kind of offences is a person impeachable? Describe the beginning and progress of a trial of impeachment?

§ 7. How many members must concur to convict? What judgment does this court pronounce? Is the offender liable to any other penalty?

CHAPTER XXX.

Of Rights.—The Right of Property; Title to Real Estate.

§ 1. In the foregoing chapters we have given a general description of the government of a state, and have seen how its important affairs are conducted; how the several departments, legislative, executive and judicial are organized; and what are the powers and duties of the different classes of officers in these departments. We have seen in all this, how well our government is adapted to secure to the people the free exercise and enjoyment of their rights, and to promote the general welfare.

§ 2. Every citizen should not only know how the laws are made and administered; he ought also to know what the laws are by which he is to be governed. Some of these laws have necessarily been given in connection with the description of the government and the duties of its numerous officers. But a more extensive knowledge of the laws is necessary. Without such knowledge, a person cannot well maintain his own rights, nor duly discharge the duties he owes to his fellow citizens. I shall therefore proceed to give an abstract of the laws in general, which more particularly define the rights and prescribe the duties of citizens in the social and domestic relations.

§ 3. The rights of citizens are either rights of person or rights of property. By the *rights of person*, or *personal rights*, we mean the right to be free to think, speak, and act as we please, and the right to be secure from injury to our bodies or persons and our good names. The *right of property* is the right to acquire, hold, and enjoy property. All laws may therefore be considered as being intended to secure either the one or the other of these classes of rights.

§ 4. The rights of citizens are secured by laws. These laws are, first, *statute laws*, the laws enacted by the law-making power of the state, called also the *written* law, being always written or printed; and secondly, the *common law*, which consists of rules that have become binding by long usage and established custom. The common law of this country is the same as that of England, having been introduced and established here while the people were subject to that country; and it is still considered the law in all cases where no law has been made to the contrary.

§ 5. Every citizen of the United States may hold lands, and take the same by descent, devise, or purchase. To take land by descent, is to obtain it by inheritance. When a person, dying, makes no previous disposal of his property, it falls, or *descends*, by right, to his children or other relatives: hence they are said to become heirs to the property by *descent*.

§ 6. But a person may direct his property to be given, after his death, to whomsoever he pleases. This is called *devising* property, or *bequeathing* it: and the person receiv-

ing the property is said to have acquired it by *devise*. And if a person pays for property an equivalent in money or some other property, he obtains it by *purchase*.

§ 7. But though every *citizen* of the United States may hold real estate, and convey it to others, the like privilege is not enjoyed by all *aliens*. By the common law, aliens can not hold and convey real property. In many states, however, laws have been enacted removing this disability. On declaring their intention to become citizens, and complying with certain regulations prescribed by law, an alien acquires the right to take and hold real estate to himself and his heirs forever.

§ 8. *Title to real property by descent.* The laws of each state prescribe the order in which the property of intestates descends to their heirs. A *testament*, or will, is a written instrument, in which a person declares his *will* concerning the disposal of his property after his death. The word testament is from the Latin *testis*, meaning witness: hence the application of the word to this instrument, which is the witness or proof of a person's *will*. The person making a will is called *testator:* hence, a person dying without making a will or testament, is called an *intestate*.

§ 9. The order in which the real estate of an intestate descends, being to a great extent determined by the laws of the states, is not uniform in this country. In general, however, the property of an intestate descends, first, to his lineal descendants, that is, persons descending in a direct line, as from parents to children, and from children to grand children. The lineal descendant most nearly related to the intestate, however distant the relation may be, takes the property.

§ 10. If any children of an intestate are dead, and any are living, the inheritance descends to the children living, and to the descendants of the children dead; so that each child living shall receive such share as he would receive if all were living, and the children of those who are dead, such share as the parents would receive if living. Thus, suppose an intestate to have had three sons, one of whom is dead, but has left children. In this case, each of the sons living would share one-third of the property, and the children of the other son would have the remaining third.

§ 11. But if the children are all dead, and there are grand children living, the grand children share equally in the inheri tance, though not an equal number are children of each pa rent. If, for example, A dies intestate leaving two sons, B and C, both of whom die, the one leaving three children, and the other two, the five share equally in the estate. If, how ever, B, having three children, were living, and C were dead, leaving two children, then one half of the property would descend to B, the son, and the other half to the two grand children, the children of C.

The laws of descent in the several states are so various in cases in which there are no lineal descendants of an intestate that reference must be had to the laws of each particular state.

EXERCISES.

§ 1, 2. Can you give any reasons why a citizen should be acquainted with the government and laws under which he lives?

§ 3. Define rights of person, and right of property.

§4. Define statute law and common law. How came the common law to prevail in this country? How far is it binding?

§ 5, 6. In what ways may a title to land be acquired? Define these several modes of acquiring property.

§ 7. What are the privileges and capacities of aliens as to holding and conveying real property?

§ 8. Define will, testament, testator, intestate.

§ 9. To whom does real estate first descend?

§ 10. Describe the manner of distribution if any children of an intestate are dead.

§ 11. What is generally the order in which property descends to children, grand children, &c.? When there are no lineal descendants, what order does property take in this state?

CHAPTER XXXI.

Of Wills and Testaments.

§ 1. All persons of full age and sound mind, except married women, may give and bequeath real and personal estate by a last will and testament. In many of the states, perhaps most of them, personal estate may be willed by persons at an earlier age. In Ohio, Illinois, and Mississippi, females at eighteen may make a will of real and personal estate. In Connecticut, married women may dispose of real and personal estate by will, as any other person; and infants of either sex may bequeath personal estate at seventeen. In Ohio, and perhaps some other states, personal estate may be willed verbally, if the will be reduced to writing within ten days after speaking the testamentary words, and subscribed by two disinterested witnesses.

§ 2. A will devising real estate must be subscribed by at least two attending witnesses, in whose presence the testator must subscribe the will, or acknowledge that he subscribed it, and declare it to be his last will and testament. In the six New England states, New Jersey, and several others, three subscribing witnesses are necessary. In the state of Vermont, wills must be sealed. If the testator is unable to sign his will, another person may write the testator's name by his direction; but he should sign his own name as witness to the will. A will thus made is valid, unless revoked or altered by a later will or writing, executed in the same manner.

§ 3. After the death of a testator who has bequeathed any real or personal estate, any executor, or any person interested in the estate, may have the will brought before the court for probate, which means *proof*. The court causes the witnesses to the will, and such others as any person interested may desire, to come before the court to be examined. An *executor* is a person named in the will of a testator, or otherwise appointed, to carry the will into effect.

§ 4. When a will has been duly proved and allowed, the

court issues letters testamentary to the executor. *Letters testamentary* give to an executor authority to carry a will into effect, and to settle the estate of the deceased. If the person named in the will refuses to act, or is not lawfully qualified, the court appoints a person, who, in that case, is called *administrator;* and the court issues *letters of administration* with the will annexed. It is the duty of an executor to follow the directions of the will, so far as it goes; and for the rest of his duties he must be governed by the law concerning administrators.

§ 5. Letters of administration are also issued in case of a person dying intestate. They give to the persons appointed to settle the estate of the intestate, the requisite authority to do so. They are issued, first, to the widow or next of kin, or both, as the court may think fit. If such person or persons are incompetent or unsuitable, or if they refuse to serve, the letters of administration are granted to such other person as the law designates. The law prescribes particularly the manner in which the property of deceased persons shall be disposed of, and their debts paid.

EXERCISES.

§ 1. Who are capable of devising real and personal estate? Does the same rule apply to willing personal estate?

§ 2. Describe the several requisites in executing a will. Is that the manner in this state?

§ 3. On whose application, and by what court, are wills proved? What is an executor?

§ 4. Define the terms, letters testamentary, administrator, and letters of administration.

§ 5. To whom, first in order, are letters of administration issued?

CHAPTER XXXII.

Of the Proof and Recording of Deeds, Mortgages and Leases.

§ 1. Every person capable of holding real property, may also dispose of and convey his right to such property to another person. To *convey* here means to transfer, or pass over to others, the right or ownership of property, so that they shall have the same interest in it as the person conveying it had before he conveyed it. Hence, the writing by which this right is transferred, is called a *conveyance;* but more frequently the instrument by which a title to land is conveyed, is called *deed.*

§ 2. A purchaser of land could not hold it securely without a deed; because a person's deed is the proper evidence of his being the true owner. If a person should buy a farm without taking a deed of the seller, the seller might dispose of it to a second purchaser; and if he should give him a deed, such second purchaser, having a deed to show that he had bought the farm, might dispossess the first purchaser.

§ 3. Whenever, therefore, any real estate is to pass from one to another, the seller gives the buyer a deed. The deed mentions the names of the parties, the sum paid, the place where the land is situated, its boundaries, and the number of acres it contains. And as evidence of the sale, the seller affixes his name and seal to the instrument. This is generally done in the presence of one or more persons, who subscribe their names as witnesses; so that in case of dispute, the purchaser may know by whom to prove that the deed was executed by the person whose name it bears.

§ 4. But when a deed has been thus executed, the purchaser is not yet safe, unless he has had it recorded in the office of the recorder of the county in which the land lies; or in the office of the town clerk, in states wherein conveyances are required to be there recorded. If it should be conveyed by the seller to a second purchaser who should get his deed recorded first, such purchaser would hold the land.

§ 5. In most of the states, however, a reasonable time is allowed a purchaser to get his deed on record, before he loses his right of possession by the earlier recording of another's deed. In some states this time fixed by law, varying from fifteen days to two years. But a deed, though not recorded at all, is good against the seller or grantor; and the dispossessed purchaser has a lawful claim against him for the value of the land.

§ 6. Before a conveyance is recorded, the person executing it must acknowledge, before a proper officer, that he executed the conveyance; and the officer must certify in writing on the back or margin of the instrument, that the person did so acknowledge. In every state, either some or all of the following officers may take acknowledgments: judges of courts and justices of the peace; commissioners of deeds, appointed for that purpose; notaries public; mayors of cities and aldermen. Every deed duly acknowledged and delivered to the proper recording officers to be recorded, is, with the acknowledgment, copied at length, word for word, in a book provided for that purpose.

§ 7. Lands are also conveyed by mortgage. A *mortgage* is a writing which conveys to another person a right to property as security for the payment of a debt, and is to have no force or effect when the debt is paid. A mortgage conveys land in the same manner as a deed; but a condition is added, providing, that if the debt for which the land is pledged shall be paid by a certain day, the instrument shall no longer have effect.

§ 8. When land is sold, and any part of the purchase money is to be paid at a future day, the seller usually conveys the land by deed to the purchaser; and the purchaser executes a mortgage to the seller, pledging the land as security for the payment of the money remaining unpaid. A mortgage also contains a condition, that if the money shall not be paid according to the agreement, the mortgagee, or person holding the mortgage, may sell the land to raise the money due; but if he sells it for more than that amount, the overplus must be paid to the mortgager.

§ 9. A wife must join with her husband in conveying land, by signing the deed with him; otherwise, if the husband

should die, his widow would have a right to one-third part of the estate during her life. This portion of a widow thus retained, is called *dower*. It is common, therefore, for the wife also to sign the deed; and she must also acknowledge, before the officer taking the acknowledgment, and apart from her husband, that she signed the deed freely, and without compulsion of her husband. In some states, the acknowledgment of the wife out of the presence of her husband is not required.

§ 10. There is another kind of conveyance, called *lease*. To *lease* means to let, but generally to let real estate to another for rent or reward. The word *demise* is often used instead of lease. The landlord, or person leasing the estate, is called *lessor;* and the tenant, or person to whom the land is leased, is called *lessee*. Leases for a term of years, that is, for a term longer than one year, are, in many states, required to be sealed, proved and recorded, as deeds and mortgages.

EXERCISES.

§ 1. By whom may lands be conveyed? Define conveyance.

§ 2. Why is a deed of conveyance necessary?

§ 3. Describe the nature of a deed.

§ 4. Where are conveyances recorded in this state? Can you give any reason why conveyances should be recorded?

§ 5. How soon must a deed be recorded in this state to exclude a second purchaser? What would be the effect of a person's not having a deed recorded at all?

§ 6. How and by whom are conveyances acknowledged?

§ 7. What is the nature of a mortgage?

§ 8. How is the sale of land on mortgage regulated?

§ 9. What is the effect of a wife's not signing a deed with her husband? What is dower?

§ 10. Define the terms lease, demise, lessor, lessee. What lease must be recorded?

CHAPTER XXXIII.

Of Fraudulent Conveyances; and of Contracts in general.

§ 1. PROPERTY is sometimes fraudulently conveyed. A debtor, to keep his property from being taken to pay his creditors, assigns it to some other person under the false pretence of securing a debt due to such person; the property to remain with the assignee, with the secret understanding that the assignee is never to take it into possession.

§ 2. To prevent such fraudulent conveyances and sales of property, the law declares, that all deeds of gift, and all transfers of goods and chattels, made by any person to secure them for his future use, shall be void, and shall not prevent them from being taken to pay his debts. As a sale or an assignment is more likely to be fraudulent when the property remains with the seller or assignor, than when the assignee takes it into his own possession, it has long been a general principle of law, that if property assigned or sold continues with the person pledging or selling it, the transaction is to be deemed fraudulent.

§ 3. This principle of the common law does not prevail to the full extent in every state. It has been held by courts in some states, and in others, of which is New York, it has been enacted, that if the person to whom a sale or an assignment is made, can make it appear that it is done in good faith, and without any intent to hinder, delay or defraud creditors, he may hold the property, although it remains with the seller or assignor. Another provision of the same law of that state requires, that the assignment or mortgage be delivered to the town clerk to be filed and kept in his office; and also that the mortgage be under seal, and renewed every year.

§ 4. The statutes of several of the states declare, that an agreement which is not to be performed within a year from the time it is made; and a special promise to pay the debt or answer for the default of another person, must be in writing. And a contract for the sale of any goods, chattels or things in action, above a specified amount, is void, without

such writing, unless the buyer accepts and receives a part of the goods or of the evidences of them; or unless the buyer at the time pays some part of the purchase money to bind the bargain.

§ 5. Much that relates to contracts in general, is to be learned from the common law. To render a contract or bargain binding, there must be a legal consideration. By *consideration* is here meant the price, or any thing that is the cause or reason for which a person enters into an agreement. Thus the money paid or to be paid for a farm, is the consideration for which the seller grants it to the purchaser. There must also be a mutual promise of both parties, to make a bargain binding; but the consideration may be something else than money or property; it is sufficient if it is any thing that is either a benefit to the party promising, or some loss or trouble to the party to whom the promise is made.

§ 6. A offers to pay B twenty dollars to-morrow, if he will deliver him twenty bushels of wheat. B brings the wheat, but A is not bound to take it and pay the price offered, because B did not on his part promise to deliver it. But if B had so promised, A would be bound to fulfill, because B has fulfilled on his part. The consideration in the case is the promise of each; and the party that fails to fulfill, is liable for the damage sustained.

§ 7. If you buy a horse to-day to be delivered to you to-morrow, and the horse should die before delivery, the loss is yours. The risk of accident to property is, in such cases, with the buyer. A buyer becomes the *owner* of property as soon as the contract is completed; but he is not entitled to take it into his possession till he pays or tenders the price, unless he has bought on a credit.

§ 8. An agreement to do what is impossible to be done, or what is unlawful; or an agreement that is made under some threat or fear, is not binding. Idiots are not bound by their contracts; nor are lunatics bound by any agreement made while they are insane.

§ 9. A person cannot give to another a title to what he does not himself own. A man buying a stolen horse cannot hold him, but must give him up to the owner. The thief, having no lawful title to the horse, could give no title. And if

the horse should be sold ever so often, the owner has a right to take him wherever he finds him, by proving him to be his; and each purchaser must look for redress to the person who sold him the property.

§ 10. Frauds are often committed in selling articles that are faulty or unsound. It is the general rule of law, that if the seller does not expressly warrant an article, or if there is no fraud on his part, the buyer must abide the loss if the article proves defective. But if the seller conceals the defect knowing it to exist, he is liable to make good the damage.

§ 11. There is much written in the books concerning contracts; but it is not easy to find a law to apply to every contract that may be made. Lawsuits are generally caused by the failure of persons to fulfill their engagements. If all would practise and encourage honest dealing, and endeavor to be faithful in discharging their obligations, there would be less need of studying the law of contracts; much money spent in lawsuits would be saved, and many unkind feelings between men would be prevented.

EXERCISES.

§ 1. Are assignments of property to avoid the payment of debts in any case justifiable?

§ 2. By what general declaration of law are such frauds designed to be prevented? What is to be deemed evidence of a fraudulent assignment or sale?

§ 3. How has this principle of common law been modified in some states?

§ 4. In what cases here mentioned must contracts be in writing?

§ 5. What is meant by the *consideration* in a contract? What things are requisite to a contract?

§ 6. Give an example of the necessity of a mutual promise. Give one of your own.

§ 7. If property is sold and not delivered, with which party is the risk of accident?

§ 8. What agreements are never binding?

§ 9. What is necessary to giving another a good title to property? State a case.

§ 10. What is the law concerning warranty?

§ 11. Mention some of the evils that result from lawsuits? Is it proper in all cases to seek redress at law for injuries received?

CHAPTER XXXIV.

Of Principal and Factor, or Agent; and of Lien.

§ 1. A *principal* is one who employs another, as *agent*, to transact his business. A *factor* is an agent; but the word factor is generally understood to mean a *commercial* agent; that is, one who is employed by merchants residing in a distant place, to buy and sell, and transact business for them. Thus, country merchants send their wheat, pork, pot-ashes, and other country produce, and millers send their flour, to their agents in the city of New York, to be disposed of. The owners of the property are called *principals;* their agents are factors, or, as they are more frequently called, *commission merchants.* As receivers of property consigned to them, they are also called *consignees,* and the persons who consign or commit to them their property, are *consignors.*

§ 2. For the accommodation of the principal, the factor sometimes pays him a part of the value of the produce before it is sold. For the money thus advanced, the factor has a claim upon the property until the advance money shall be refunded, and all charges against the owner paid. And as a factor does not always know who is the actual owner, the person in whose name the goods are shipped, is to be deemed the owner.

§ 3. This claim which a factor has upon goods intrusted to him for sale, is called *lien;* and the factor may sell the goods, and retain out of the proceeds of the sale what is due him; and the remainder he must pay to the principal, or owner.

§ 4. But a person cannot sell or pledge property committed to him for transportation or storage only; nor can a

factor pledge goods intrusted to him for sale, as security for his own debts. A factor who disposes of any merchandise intrusted or consigned to him, and applies the avails to his own use, with intent to defraud the owner, may be punished by fine and imprisonment.

§ 5. How far, in ordinary business, a principal is bound by the acts of an agent, it is not easy to determine. As a general rule, however, a general agent, that is, one who transacts either all kinds of business for his employer, or business relating to some particular department, binds his employer or principal, by his acts, so long as he keeps within the general scope of his authority, even though he were expressly instructed not to do a particular act.

§ 6. But if an agent is employed for a special purpose, the principal is not bound by the act of the agent, if he passes the limits of his power. If you employ a man to go out and purchase a horse for you, without giving him authority to do any thing else, and if he buys a horse and a wagon, you are not bound to pay for the wagon, because the agent had power only to buy the horse.

§ 7. If an agent buys in his own name, he is himself liable; and although he does not disclose the name of the principal, the principal also is bound, if the goods come to his use, but not otherwise.

§ 8. A *lien*, as has been stated, is the claim of a factor or agent upon property in his possession, as security for the payment of his charges. This right of lien extends to others than factors. It is intended also for the benefit of manufacturers and mechanics, and other persons carrying on business for the accommodation of the public.

§ 9. A merchant has a lien upon goods sold till the price is paid, if no credit has been stipulated for; and even when he agrees to give a credit, if the purchaser practises fraud in obtaining the goods, the seller may take them. These cases differ, however, from ordinary cases of lien, as the purchaser has not, in reality, acquired any lawful right to the property; and the merchant may dispose of the property as his own, which cannot be done in other cases.

§ 10. A shoemaker receiving leather to manufacture into shoes, may retain the shoes until he is paid for the making;

a tailor has a lien upon the garment made from another's cloth; a blacksmith upon the horse he shoes; an inn keeper upon the horse or goods of his guest; and common carriers upon the goods they transport. But they cannot hold property for any other debt; nor have they a right to sell such property to satisfy their claim upon it. Whenever a person allows property to go out of his possession, he loses his lien.

EXERCISES.

§ 1. Define principal and factor. Who are consignors and consignees?

§ 2, 3. To what extent has a factor a claim upon property consigned to him? What is this claim called?

§ 4. What may *not* an agent do with the property of the principal?

§ 5. How far is a principal bound by the acts of a general agent? State a case under this rule.

§ 6. What is the rule in case of special agency? State a case of your own.

§ 7. When is a principal bound for what an agent buys in his own name?

§ 8. Who besides factors have the right of lien?

§ 9, 10. In what cases is this right possessed by merchants, mechanics, and others?

CHAPTER XXXV

Of Partnership.

§ 1. As much of the business of this country is done in partnership, it is necessary to know the rights and responsibilities of partners. A *partnership* is the association of two or more persons for the purpose of carrying on any business, agreeing to divide the profits and bear the loss, in certain proportions. Persons forming a partnership, unite their money or capital. Sometimes one furnishes money, and another performs the labor. Or, perhaps no money may be necessary, but each agrees to do his share of the labor.

§ 2. All the members of a partnership are bound by the act of any one of them, or by any contract which either of them may make. Although they agree to divide their gains and losses, either one of them is liable for all the debts of the partnership. If one of the concern buys property on his own account, for his individual use and benefit, he alone is liable; but though he thus buys it, if it be afterwards applied to the use of the partnership, all become liable.

§ 3. There are cases, however, when not all who share in the profits are responsible; as when a clerk or agent agrees to receive a part of the profits as a compensation for his service or labor; or when one receives, as rent, a part of the profits of a tannery, tavern or farm. In these cases, although the parties share in the profits, there is no partnership; and the persons who buy the stock and other materials, and hire the labor necessary to carry on their respective trades, are alone responsible.

§ 4. One partner cannot bring a new partner into the firm, without the consent of all the others. If, therefore, a partner should desire to sell his interest to some other person who is to take his place in the partnership, he cannot do so, unless all the partners consent to such sale.

§ 5. All the partners must unite in suing and being sued. Sometimes, however, there are secret or dormant partners, who conceal their names: these may not join in an action as plaintiffs, but they may be sued when discovered to be partners.

§ 6. As each partner is liable for all the debts of the concern, so each may, in the name of the firm, in ordinary cases, assign over the effects and credits to pay the debts of the firm.

§ 7. Any partner may withdraw when he pleases, and dissolve the partnership, if no definite period has been agreed on for the partnership to continue; but if, by the terms of agreement, it is to continue for a definite period, it cannot be dissolved before the expiration of the term, without the mutual consent of all the partners, except by the death or some other inability of one of them; or by a decree of the court of chancery. When a partnership is dissolved by the withdrawal of any of the partners, notice of dissolution ought

to be given, or such partners will be liable for debts contracted by those who continue the business.

§ 8. In some of the states, a partnership may be formed by a number of persons, some of whom are to be responsible only to a limited amount, and their names are not to be used in the firm. But before a partnership of this kind can do business, a writing and certificate signed by the parties, stating the terms of partnership and the amount for which the *special partners*, (as they are called) are to be responsible, must be recorded: the terms of partnership must also be published in a newspaper.

§ 9. In partnerships thus formed, called *limited partnerships*, the special partners become liable only to the amount mentioned in the terms of partnership. The other partners, called *general partners*, whose names only are used, and who transact the business, are liable for all the debts contracted, as in ordinary partnerships. If such partnership is to be dissolved by act of the parties, before the time expires for which it was formed, notice of dissolution must be filed and recorded, and published in a newspaper.

EXERCISES.

§ 1. Define partnership.

§ 2. In what cases are partners jointly liable?

§ 3. In what cases are partners not so liable?

§ 4. When only can a partner sell his interest in a concern?

§ 5. Can partners be sued separately?

§ 6. For what purpose may an individual partner assign all the effects of the concern?

§ 7. In what case can any partner withdraw, and dissolve the partnership? In what case is a retiring partner liable for debts afterwards contracted.

§ 8, 9. What is the nature of a limited partnership? How is it formed? To what extent are the special and general partners respectively liable? Are limited partnerships authorized in this state?

CHAPTER XXXVI.

Of Bailment.

§ 1. Another class of rights and responsibilities are those which arise from delivering and receiving property in trust, to be kept or used, and re-delivered, according to agreement. Such delivery and receiving includes giving and taking goods to be kept for and without reward; in security for debt; borrowing and lending: letting for hire; carrying, &c. These are comprehended in the word *bailment*, which is from *bail*, a French word, meaning to deliver.

§ 2. If a person takes goods to keep and return without reward, he must keep them with ordinary care, or if they receive injury, he will be liable to the bailor for damage; in other words, a bailee without reward is responsible only for gross neglect. The person with whom goods are deposited, is also called in law, *depositary*. A depositary may not use the goods taken into his care.

§ 3. A person who agrees to carry goods from place to place, or to do some other act or work upon or about them, without recompense, must use due diligence in performing the work; he is responsible for gross neglect, if he undertakes and does the work amiss; but it is thought that for agreeing to do, and not undertaking or doing at all, he is not liable for damage. If he has been strongly persuaded to do the act, only a fair exertion of his ability is required.

§ 4. A borrower is liable for damage in case of slight neglect. If he applies the article borrowed to the use for which he borrows it, uses it carefully, does not allow another to use it, and returns it within the time for which it was borrowed, he is not liable.

§ 5. A person who receives goods in security for a debt or engagement, is liable for ordinary neglect. But if he bestows ordinary care upon the goods, and they should then be lost, he still has a claim upon the pawnor for the debt.

§ 6. When property is hired, that is, when something is to be paid for the use of an article, and it is injured by mode-

rate usage, the owner bears the loss; but the hirer must not use it for any purpose but that for which it is hired, and he must return it promptly, or he is liable for damage.

§ 7. If an article is delivered, upon which work is to be bestowed, the work must be properly done. A manufacturer who receives wool to make into cloth, or the tailor who takes cloth to make into a garment, must do the work well, or he is liable for damage. If the property should be lost or stolen, he is responsible for ordinary neglect.

§ 8. Innkeepers are, in general, responsible for all injuries to the goods and baggage of their guests, even for thefts. But for losses caused by unavoidable accident, or robbery, they are not liable.

§ 9. A common carrier, that is, one who carries goods for hire as a common employment, is responsible to the owner, even if robbed of the goods. But a person who occasionally carries goods for hire is not a common carrier, and is answerable only for ordinary neglect, unless he expressly takes the risk. A common carrier is one who holds himself out as ready to carry goods as a business, by land or by water, and is answerable for all losses, except in cases of public enemies, as in time of war, and in case of the act of God, as by lightning, storms, floods, &c. Public carriers are responsible for the baggage of their passengers, though they advertise it as being at the risk of the owners.

EXERCISES.

§ 1. Define bailment. What different transactions does this term embrace?

§ 2. Define bailor, bailee, depositary. In what case is a bailee without reward liable to the bailor for damage?

§ 3. If a person receives goods to carry without reward, in what case is he liable? In what cases not?

§ 4. For what is a borrower liable?

§ 5. In what case is a pawnee liable for the loss of pawned goods?

§ 6. How is liability incurred for damage to a hired article?

§ 7. If a man takes an article to do work upon, in what case is he liable for damage?

§ 8. For what are inn keepers liable?

§ 9. For what are common carriers responsible? Who are common carriers?

CHAPTER XXXVII.

Of Promissory Notes; Bills of Exchange; Interest.

§ 1. A PROMISSORY note is a writing by which a person promises to another a certain sum of money, for some value received by the promisor. The following is a form:

"ALBANY, January 1, 1848.

"Three months after date, I promise to pay to John Jones, or bearer, twenty dollars, for value received.

"SAMUEL SMITH."

§ 2. Notes thus written may be bought and sold as other property. But if the words *or bearer* were omitted, it would not so pass; or as men would say, it is not *negotiable*, being payable to John Jones only. The holder might sell it; but the buyer, if obliged to sue, must sue in the name of Jones, in which case Smith may offset against the note any demand which he may have against Jones. The words "or bearer" should therefore be inserted, that the holder, whoever he may be, may collect it in his own name.

§ 3. Another way of making notes negotiable, though less practised, is to insert the words, *or order*, in the place of "or bearer;" but in this case, the promisee must indorse it by writing his name on the back of it. Such indorsement is in law considered as his order to the maker to pay it to another person, and renders it transferable.

§ 4. It is usual to insert the words *value received*, as evidence that the note was given for some valuable consideration; for it will be recollected that contracts are not valid without some consideration. But these words are not necessary to make the note good; for if the maker of the note can prove that no value was received, he can avoid the payment, even if these words are in the note.

§ 5. A note, after it has become due, is not negotiable as before due. It may be transferred, but the promisor may offsett demands which he had against the promisee, the original holder, before he parted with it.

§ 6. Notes are sometimes made payable *on demand*. They are due immediately; and payment need not be demanded and refused before the holder can sue. Also, if no time of payment is mentioned in a note, it is due when given, and no demand of payment is necessary. But a note payable *at sight*, or at a specified time after sight, must be presented for payment before it can be sued.

§ 7. After a note has become due, the maker is allowed three days to pay, which are called *days of grace*. But if no time of payment is mentioned in the note, or if it is payable on demand, no grace is given. To bind the indorser of a note payable to order, (see § 3,) payment must be demanded of the maker on the last day of grace, and refused, and the indorser notified the same day by the holder, or by a person sent for that purpose, that the note is not paid. If the parties do not reside in the same town, notice may be sent by the first mail after the last day of grace.

§ 8. Sometimes the seller of a note warrants it. If in his indorsement he guaranties "the payment of the note," he becomes liable as an original promisor, without notice of its non-payment when it falls due. If he warrants it "good," or "collectable," the holder must promptly endeavor to enforce the collection of the note in order to make the guarantor liable, unless he can show that it could not have been collected of the maker when it became due.

§ 9. Sometimes notes, so called, are made payable in grain, lumber, or some other property instead of money. But these are not considered in law as notes, and are not negotiable, though written payable to bearer. Such obligations, however, are often sold and transferred; but if sued, it must be done in the name of the payee, in which case the promisor may offsett demands, if he has any, against the payee. If such obligations are not paid when they become due, they are then payable in money.

§ 10. A *bill of exchange* is an order drawn by one person

on another, requesting him to pay money to a third person. The following is a form:

"BOSTON, August 5, 1848.

"Ten days after sight, pay James Johnson or order, five "hundred dollars, value received. PETER PRICE.

"To THOMAS THOMPSON,
Merchant, New-York."

§ 11. It will be seen that this is, in effect, the same as an order used in common business. But when drawn by merchants in commercial cities on persons in distant places, orders of this kind are called bills of exchange. They are often very convenient to persons in mercantile business.

§ 12. The nature and operation of a bill of exchange are thus illustrated: A, in New York, has $500 due him from B, in Cincinnati. A draws an order on B for that sum, and C, who is going to Cincinnati, pays A the money, takes the order, and receives his money again of B. If B has not the money when the bill is presented; or if it is made payable at some future day, and he agrees to pay it, he is said to *accept* the bill; and as evidence of the fact, he writes his acceptance upon it.

§ 13. When a person accepts a bill, he becomes the debtor, but the drawer remains liable if the acceptor fails to pay. But payment must be demanded of the acceptor on the last day of grace, and notice given to the drawer, as in the case of an indorsed note.

§ 14. *Interest* is an allowance for the use of money, or for the forbearance of a debt. Thus, a person lends to another $100 for one year, and receives for the use of it $6, which is called the interest. Promissory notes are usually made payable with interest.

§ 15. The rate of interest is fixed by a law of the state, but is not the same in all the states. It is *six* per cent. in all the states except the following: New York, South Carolina, Michigan, Iowa, and Wisconsin, in which it is *seven* per cent.; Georgia, Alabama and Florida, in which it is *eight* per cent.; Louisiana, *five* per cent.; bank interest *six* per cent.; Mississippi, *eight* per cent. on loaned money; *six* on contracts. In the following states, higher rates may be taken by special

agreement: Missouri, *ten* per cent.; Wisconsin, *twelve;* Ohio, *twenty;* Louisiana, *twenty-eight.*

§ 16. A higher rate of interest than that fixed by law, is called *usury.* Not only can no more be collected on any contract or obligation than the lawful rate, but in most of the states there is some forfeiture for taking usurious interest. In some states, the whole debt is forfeited; in others, twice or thrice the excess above the lawful interest; and in some, only the excess taken can be recovered.

EXERCISES.

§ 1. What is a promissory note? State the usual form of a note.

§ 2. What is meant by a note's being negotiable? What would be the effect of omitting the words, or bearer?

§ 3. What effect has the word order instead of bearer?

§ 4. Are the words value received necessary to bind the maker of a note?

§ 5. Is a note negotiable after it has become due?

§ 6. What is the difference between making a note payable on demand, and at sight?

§ 7. What are days of grace? How is an endorser of a note made and held responsible?

§ 8. What is the difference between guarantying the payment of a note and warranting it good, or collectable?

§ 9. What is the nature of obligations for property instead of money?

§ 10. What is a bill of exchange? State the form of one.

§ 11. For whose convenience, chiefly, are bills of exchange designed?

12. Illustrate their use by an example. How is a bill accepted?

§ 13. When must the payment of a bill be demanded to keep the drawer liable?

§ 14. What is interest?

§ 15. What are the rates of interest in the several states?

§ 16. What is usury? How do the laws of the states provide against usury?

CHAPTER XXXVIII.

Moneyed Corporations.—Banks; Insurance Companies.

§ 1. We are informed that the first institution of banks was in Italy, where certain Jews kept benches in the market places for the exchange of money and bills; and *banco* being the Italian name for bench, banks took their title from this word. The first banks are supposed to have been only places where money was laid up or deposited for safe keeping. But banks at the present day are not used for depositing alone. No banks in this country can be established, but by authority of law.

§ 2. If the inhabitants of a place want a bank, they petition the legislature to incorporate a banking association. The act of incorporation prescribes the manner in which the company shall be formed, how its business shall be done, and the amount of capital or stock to be employed. The capital is raised in this way: the sum intended to constitute the capital of the bank, is divided into shares of $100 each: so that if the whole stock is to be $100,000, there are 1000 shares. These shares are sold, to one person ten, to another twenty, and to another, perhaps fifty, and so on till all are sold, and the whole capital is paid in.

§ 3. Now a person buying any number of shares, takes a certificate, stating that he is the owner of such number of shares; and such certificate may be sold to another person.

§ 4. The stockholders choose of their number, usually, thirteen directors, who choose one of themselves to be president: hence the name of a banking association generally is, "The President, Directors, and Company of the Bank of ————." The president and directors choose a cashier and clerks.

§ 5. A part of the business of banks is still that for which they were originally intended, viz., depositing money. Merchants and other business men near a bank, deposit their money, and then draw it out as they have use for it, by sending their orders to the cashier. This order is called a *check*.

§ 6. Banks are allowed to issue their own bills as money. A bank bill or note is a promise to pay the bearer a certain sum on demand, and is signed by the president and cashier. These bills pass as money, because persons holding them may get the gold or silver for them by demanding it of the cashier.

§ 7. A material part of the business of the bank is to lend money. If a man wants to borrow money at a bank, he makes a note for the amount wanted, which is signed by himself and one or two others as sureties. For this note the cashier pays the bank's own bills, deducting from the amount the interest for the time the note is to run.

§ 8. Another kind of business done by banks is, to assist merchants and others in transmitting money to distant places. An operation of this kind is performed thus: A, in Boston, wishing to send $1,000 to B, in Philadelphia, puts the money into a bank in Boston, and takes for it an order, or draft, on a bank in Philadelphia, for that amount, to be paid to B. The draft is sent by mail to B, who calls at the bank, and receives his money; and the bank charges the amount to the Boston bank.

§ 9. But it may be asked, how the bank in Philadelphia gets the money from the bank in Boston. Let it be remembered, that there are business men in Philadelphia who have occasion to make remittances to Boston, and who pay their money into the Philadelphia bank, and take drafts on the bank at Boston. The banks at both places are constantly receiving money and drawing upon each other. Thus the transmission of millions of dollars may be performed every year through the banks, without the risk and labor of carrying the money from place to place, and without any expense other than that charged by the banks for transacting the business.

§ 10. It has just been said that banks issue their own notes as money, which they promise to pay on demand. Paying their bills on demand of payment, is called *redeeming* their bills. When banks issue more bills than they can redeem, they are said to have failed, or to be broken. In such case the bill holders suffer loss, unless some provision has been made by law for their security. In some states

the stockholders in a bank are made individually responsible for its debts.

§ 11. In the state of New York different means have been provided for redeeming the bills of banks that fail. In 1830, a law was made imposing a yearly tax of one half of one per cent., that is, a half cent on every dollar, or a half dollar on every hundred dollars of their capital stock, until three per cent. should be paid. The money thus raised is a fund, called *safety fund*, from which bills of broken banks are redeemed. When this fund is exhausted, the taxing must be renewed.

§ 12. A new banking law was enacted in 1838, by which banks thereafter to be established, are to put into the hands of the comptroller securities for redeeming their bills, to the full amount of their capital. At least one half of these securities must consist of stocks of that or some other state, and the remainder, of mortgages on real estate. When a bank fails, the comptroller sells the lands and state stocks which he has in pledge, if necessary, to redeem the bills. Under this law, persons may form a banking association without applying for a special law of incorporation. By the constitution of 1846, the individual property of the stockholders is liable to the amount of their respective shares. Laws similar to these have been enacted in other states.

§ 13. There is another kind of moneyed corporations, called *insurance companies*. They are formed in the same manner as banks. For a small sum paid them, say 50, 75, or 100 cents on every 100 dollars of the estimated worth of a building, they agree to pay for it if it should be destroyed by fire. They also insure ships and other vessels. Sometimes the lives of men are thus insured; the company agreeing to pay a certain sum, or a yearly allowance, for the benefit of a man's family in case of his death.

§ 14. But it may be asked, From what source do the stockholders of an insurance company derive their profits? Suppose they have 500 houses insured, the average value of which is $1,000 each: the amount of risk is $500,000. If the rate of insurance is one dollar a year for every $100 insured, the company receives $5,000. If no buildings should be burned within the year, this sum would be gained. If

one building should be consumed, the gain would be $1,000 less. If five buildings, there would be no gain, but an actual loss to the amount of the necessary expenses of the concern, to be paid out of the capital stock of the company.

§ 15. But from the average annual losses by fire during a number of years, a company is enabled so to rate the insurance, as to give the stockholders a fair profit on their capital, to be divided among them. The money paid by a person for insurance, is called *premium;* that which is divided as profits, is called *dividend.*

§ 16. There is another kind of insurance companies, which are becoming very general, called *mutual insurance companies.* They are so called, because the members unite in insuring each other. Every person having his property insured by such a company, is a member of it. He has his buildings and the property in them valued; and he pays a fixed sum per cent. on such valuation. A fund is thus raised, out of which any member suffering loss by fire is paid the value of the property lost. Whenever the fund is exhausted, a tax is assessed upon the members in proportion to the value of each one's property insured, in order to replenish the fund.

EXERCISES.

§ 1. What kind of banks are the first said to have been?

§ 2. By what authority are banks established? How is the capital stock obtained?

§ 3. What is the nature of a certificate of stock?

§ 4. How are the president and directors chosen?

§ 5. What is the nature of a bank check?

§ 6. What office do bank bills perform? Describe a bank bill or note.

§ 7. How is money borrowed from a bank?

§ 8. Describe the manner of transmitting money to distant places through banks.

§ 9. How is the transmission of money from bank to bank avoided?

§ 10. What is meant by redeeming bills?

§ 11. Describe the bank safety fund of New York.

§ 12. What are the principal provisions of the general banking law of New York? Is there a law in this state similar to either of these?

§ 13. What is the nature of an insurance company?

§ 14. Illustrate, by example, how insurance companies are sustained?

§ 15. What are premiums and dividends?

§ 16. Give a general description of a mutual insurance company and its operations.

CHAPTER XXXIX.

Of the Domestic Relations.—Of Marriage, and the Relation of Husband and Wife; Parent and Child; Guardian and Ward.

§ 1. The marriage relation is a most important one. By improper marriages many persons are rendered unhappy for life; and sometimes the peace of whole families is destroyed. Some law, therefore, is necessary to prevent such marriages, as far as possible, by declaring who shall be deemed capable of contracting marriage, and what persons may become united in that relation.

§ 2. To make a marriage contract binding, several things are necessary: (1.) Persons must have sufficient understanding to transact the common business of life: hence lunatics and idiots cannot bind themselves in marriage. (2.) The parties must not be nearly related to each other. The laws of the states generally declare at what degrees of relationship persons are forbidden to marry. (3.) Persons must be of sufficient age. In states where the age of consent, (as it is called,) is not fixed by statute, the common law must govern, which allows males to contract marriage at the age of fourteen years, and females at the age of twelve. (4.) Persons must act freely. If the consent of either party has been obtained by force or by fraud, the marriage may be declared void.

§ 3. A person having a wife or husband living, can not

lawfully contract a second marriage, except when the former wife or husband has been sentenced to imprisonment for life; or has been absent for five years together, and the party re-marrying not knowing that the absent party was living within that time; or when the former marriage has been lawfully annulled or dissolved. But if a marriage has been dissolved for the cause of adultery, the guilty party may not re-marry. Marriages forbidden by the preceding provisions are void, and may be so declared by a competent court.

§ 4. The manner in which marriages are to be solemnized, and by whom, and the manner in which marriage licenses are obtained, or notices of marriage published, (which are required in some states,) are prescribed by the laws of the states in which such regulations exist. Marriages may be solemnized by ministers of the gospel, judges, justices of the peace, besides some other officers. But a simple consent of the parties, declared before witnesses, renders a marriage lawful.

§ 5. By marriage the husband and wife become, in law, one person. The husband acquires a right to the property of the wife which she had before marriage. He has a right to the use of her property in lands, or real estate, during his life time, and is entitled to the rents and profits thereof; but he cannot dispose of the property unless she joins with him in the deed. But her chattels real, which are leases of land for years, and all her other personal estate, including debts due her by bond, note or otherwise, when collected by him, become his; and he may dispose of them as he pleases.

§ 6. As the husband acquires, by marriage, an interest in his wife's property, he is obliged to pay her debts contracted before marriage: but if they are not recovered of the husband during the time he is united to her in marriage, he is no longer answerable for her debts.

§ 7. It is the duty of the husband to maintain his wife; and he is bound to pay debts which she may contract for necessaries, but for nothing more. And it seems to be the law, that even if he forbids all persons to trust her, she can bind him for necessaries, if they have become separate through fault on his part. If they part by consent, and he

secures to her a separate maintenance, and pays it according to agreement, he is not answerable even for necessaries.

§ 8. The husband and wife cannot be witnesses for or against each other in a court of justice; but any declarations which a wife makes when acting as the agent of her husband, may be taken as evidence against him.

§ 9. *Parent and Child.* It is the natural and reasonable duty of parents to maintain and educate their children until they become of suitable age to provide for themselves. The age at which the obligations of parents, as guardians of their children, end, is twenty-one years, which is called the age of *majority*, when persons are said to be *of age*. Hence, under twenty-one they are in law called *infants*, or minors, and are said to be in a state of *minority*. In Vermont and Ohio, females at the age of eighteen years are of age.

§ 10. As parents are bound to support their minor children, they have a right to their labor; and they may recover the money for the wages of their children, from any person employing them without their parents' consent. A parent is not bound to pay even for necessaries sold to a child, unless a child had authority from the parent, or unless the parent neglected to provide for the child, or forced him from home by severe usage. And when a child is obliged to support himself, he is entitled to his own earnings.

§ 11. A second husband is not bound to support the children of his wife by a former husband. If, however, he receives such children into his family, he is liable to support them as his own

§ 12. If a father dies before the child is of age, and does not by will appoint a guardian, the mother becomes the guardian of the child, and in some cases of his property also, until he arrives at the age of fourteen years, when he may choose a guardian for himself. When an infant becomes possessed of an estate in lands, if there is no father, the mother has the guardianship of the estate; and if there is neither father nor mother, then the nearest and eldest relative takes the guardianship of such estate.

§ 13. *Guardian and Ward.* The father is the natural guardian of a child, and after his death, the mother. But a father may, by his deed, or last will, dispose of the custody

and tuition of a minor child, while under twenty-one years, to another person, who then has the care and management of the minor's personal estate, and of the profits of his real estate, during the time for which the disposal was made. Such person is then guardian, and the child is called *ward*.

EXERCISES.

§ 1, 2. Mention the several particulars which are necessary to render a marriage contract binding. What is meant by age of consent?

§ 3. In what cases may a person marry a second time, while the former wife or husband is living?

§ 4. By whom are marriages solemnized in this state? Is such solemnization essential to the validity of a marriage?

§ 5. What right to a wife's real and personal estate does a husband acquire by marriage?

§ 6. How far is he liable for her debts?

§ 7. To what extent is he bound by her contracts?

§ 8. Can they be witnesses for or against each other? Why ought they not to be?

§ 9. At what age do the legal obligations between parents and children cease? At what year do children become of age?

§ 10. How far is a parent liable for his children's contracts?

§ 11. How far is a second husband liable to support his wife's children?

§ 12. If a father dies, who is guardian of the children? If there is neither father nor mother, who becomes guardian of children's real estate?

§ 13. How may a father dispose of the custody of a minor child?

CHAPTER XL.

Minors, Masters, Apprentices, and Servants.

§ 1. *Minors.* The statutes of the several states do not declare how far minors may bind themselves by contract or agreement. In such case, the common law must determine. In general, a minor is not bound by a bargain which he may make; but if he agrees, after becoming of age, to fulfill a contract which he made while a minor, he must do so. And if he has no father or other guardian, he is bound to pay for articles actually necessary for him. But the person who trusts him must make inquiry; and if the minor has been properly supplied by his friends, the person trusting him can not recover; nor can he in any case recover more than the actual value of the goods sold to the minor.

§ 2. But minors are responsible for the payment of fines; and they may be prosecuted and tried for acts of fraud and crime. It is not easy, however, to determine, from the practice of courts of law, in what particular case a minor is or is not accountable for fraudulent acts. His age, and the circumstances in which he was placed, might be such as to free him from obligation; but for an act of gross and palpable fraud, committed by an infant who has arrived at the age of discretion, he would be responsible.

§ 3. *Masters, apprentices, and servants.* In general, male infants, and unmarried females under eighteen years, may, of their own free will, bind themselves, in writing, to serve as apprentices or servants, in any trade or employment; males, until the age of twenty-one, and females, until the age of eighteen, or for a shorter time. A minor thus binding himself must have the consent of the father; or if the father is dead, or disqualified by law, or neglects to provide for his family, then consent must be had of the mother; or if the mother is dead or disqualified, then of the guardian.

§ 4. Children that have become chargeable to the town or county for their support, may be bound out by the proper officers having charge of the poor. And the laws of the

states generally very properly require, that a person to whom a child is bound, shall agree to cause such child to be taught to read and write, and also to be instructed in the general rules of arithmetic. The laws of some states require instruction in arithmetic only in the case of male apprentices.

§ 5. The laws also provide for compelling both parties to fulfill their obligations. Masters have a right to correct their apprentices with moderation for negligence or misbehavior; and they may recover damage at law of their apprentices for wilful absence. On the other hand, a master may be prosecuted for ill usage to his apprentice, and for a breach of his covenant. A master is liable to pay for necessaries for his apprentice, and for medical attendance; but he is not so liable in the case of a hired servant.

§ 6. When an apprentice becomes immoral or disobedient, investigation may be had of the matter by the proper authorities, and if good cause exist, the indenture may be annulled, and the parties discharged from their obligations. Upon the death of a master, an apprenticeship is always dissolved.

§ 7. There is, it is believed, no statute law in any state particularly defining the rights and obligations of hired servants and the persons employing them. Both are obliged to fulfill their agreement. If a hired servant leaves the service of his employer, without good cause, before he has worked out the time for which he was hired, he cannot recover his wages. And for immoral conduct, wilful disobedience, or habitual neglect, he may be dismissed. On the other hand, ill usage, or any failure on the part of the employer to fulfill his engagement, releases the laborer from his service.

§ 8. How far a master is answerable for the acts of his hired servant, is not clear. As a general rule, however, the master is bound by contracts made, and liable for injuries done, by a servant actually engaged in the business of his master, whether the injury proceeds from negligence or from want of skill. But for an injury done by a wilful act of the servant, it is considered that the master is not liable.

§ 9. If the servant employs another to do his business, the master is liable for the injury done by the person so em-

ployed. But a servant is accountable to his master for a breach of trust, or for negligence in business, or for injuring another person in his master's business.

EXERCISES.

§ 1. In what cases are minors bound to fulfill their contracts?

§ 2. What is said of their responsibility in cases of fraud and crime?

§ 3. By whose consent are minors bound as apprentices?

§ 4. By whom may poor children be bound out? By what officers in this state? What must they be taught?

§ 5. What are the mutual rights and obligations of master and apprentice?

§ 6. For what causes, and how, may apprenticeships be dissolved?

§ 7. What are the mutual rights and obligations of master and hired servant?

§ 8, 9. In what cases are masters liable for the acts of their servants? For what is a servant accountable?

CHAPTER XLI.

Of Crimes. Felonies, or Crimes punishable by Death, or by Imprisonment in State Prison.

§ 1. The statutes of each state define all crimes of which its laws take cognizance. So similar, however, are the laws defining crime in the several states, that the definitions of the crimes mentioned in this chapter, will be found to agree substantially with those of the laws of every state in the Union. The statutes also declare the punishment; but as the measure of punishment, except for crimes punishable by death, is left so much to the discretion of the judges who pass sentence upon offenders, to be varied according to the aggravation of the crimes committed, it is deemed unnecessary to mention the penalties annexed to them

§ 2. The laws of the several states differ in respect to the number of crimes made punishable by death. In Massachusetts there were until within a few years, and are perhaps still, no less than six crimes thus punishable; while in some states the penalty of death is by law annexed to the crime of murder only. Treason also is always punishable by death; but as this offence is defined and made punishable by the laws of the United States, not all the states take cognizance of it. If committed in such states, it is tried in the courts of the United States. In New York, murder, treason, and arson in the first degree, are punishable by death. Few states make more than these crimes thus punishable.

§ 3. Crimes punishable by death, are called *capital* crimes, and their punishment is called *capital* punishment. The word capital is from the Latin, *caput*, which means head; and so has come to signify the highest or principal. Hence, probably, the application of the word capital to the principal crimes receiving the highest punishment, which was formerly practised extensively in other countries by beheading or *decapitating* the criminals.

§ 4. *Treason* is defined by statute to be, levying war in any state against the people of the state; or a combination of two or more persons, attempting by force to usurp or overturn the government of the state; or in adhering to enemies to the state while separately engaged in war with a foreign enemy, and giving them aid and comfort.

§ 5. *Murder* is the killing of a person deliberately and maliciously, and with intent to effect death; or killing a person in committing some other crime, though not with a design to effect death; or in killing a person purposely and without previous deliberation. The less aggravated cases of murder, are in some states distinguished as murder in the second degree, and punished by imprisonment for a long term, or for life.

§ 6. *Manslaughter* is killing a person either upon a sudden quarrel, or unintentionally while committing some unlawful act. The statutes of New York define four different degrees of manslaughter.

§ 7. *Arson* is maliciously burning any dwelling-house, shop, barn, or any other building, the property of another.

Burning an inhabited dwelling-house *in the night time*, is in New York and Massachusetts, and perhaps in other states, punishable with death.

§ 8. *Homicide* signifies mankilling. It is of three kinds, felonious, justifiable, and excusable. When felonious, it is either murder or manslaughter. *Justifiable* homicide is that which is committed in the necessary defence of one's person, house or goods, or of the person of another when in danger of injury; or that which is committed in lawfully attempting to take a person for felony committed, or to suppress a riot, or to keep the peace. *Excusable* homicide is the killing of a person by accident, or while lawfully employed, without any design to do wrong. In the two last cases there is no punishment.

§ 9. Intentionally *maiming* another by cutting out or disabling the tongue or any other member or limb; inveigling or *kidnapping; decoying* and taking away children; *exposing children* in the street to abandon them; committing or attempting an assault with *intent to kill*, or to commit any other felony, or in resisting the execution of a legal process; *administering poison* without producing death; *poisoning any well* or spring of water; are all felonies, and punishable as such.

§ 10. *Burglary* is maliciously and forcibly breaking into and entering in the night time, any dwelling house or other building, with intent to commit a crime. Breaking into and entering a house by day, is considered a minor degree of burglary.

§ 11. *Forgery* consists in falsely making, counterfeiting, or altering any instrument of writing, with intent to defraud. The word *counterfeiting* is generally applied to making false coin or bank notes, or in passing them; or in having in possession any engraved plate, or bills unsigned, which are intended to be used for these purposes.

§ 12. *Robbery* is the taking of personal property from another in his presence and against his will, by violence, or by putting him in fear of immediate injury to his person. Knowingly to send or deliver, or to make for the purpose of being sent, a letter or writing, threatening to accuse any one of crime, or to do him some injury, with intent to extort or

gain from him any money or property, is considered an *attempt to rob*, for which the offender may be imprisoned.

§ 13. *Embezzlement* is fraudulently putting to one's own use what is intrusted to him by another. To buy or receive property knowing it to have been embezzled, is to be guilty of the same offence. Embezzling is usually punishable in the same manner as larceny of the same amount.

§ 14. *Larceny* is theft or stealing. The stealing of property above a certain amount in value, is called *grand larceny*, and is a state prison offence. If the value of the property stolen is of less amount, the offence is called *petit larceny*, and is punished by fine or imprisonment in jail, or both.

§ 15. *Perjury* is wilfully swearing or affirming falsely to any material matter, upon an oath legally administered. *Subornation of perjury* is procuring another to swear falsely: punishable as perjury.

§ 16. *Bribery* is promising or giving a reward to a public officer, to influence his opinion, vote or judgment. A person *accepting* such bribe, is punishable in the same manner, and forfeits his office, and, in some states, may never hold another public trust. This offence is not in all the states punishable by imprisonment in the state prison.

§ 17. *Dueling* is a combat between two persons with deadly weapons. Killing another in a duel is murder, and punishable with death. If death does not ensue, imprisonment. Challenging, or accepting a challenge, to fight, or to be present as a second, imprisonment. Dueling is not a punishable offence in every state.

§ 18. Aiding or attempting to aid a prisoner committed for felony, to *escape from confinement*, or forcibly rescuing a prisoner charged with crime, from the custody of a public officer, is a crime. If the offence for which the prisoner is committed is less than felony, the punishment is imprisonment in jail, or fine, or both.

§ 19. *Bigamy* is the crime of having two or more wives, and is also called *polygamy*. But bigamy literally signifies having *two* wives, and polygamy any number more than one. These words, in law, are applied also to women having two or more husbands. A person having a lawful husband or wife living, and marrying another person, is guilty of bigamy.

An unmarried person, also, who shall marry the husband or wife of another, is punishable in like manner.

§ 20. *Incest* is the marrying or cohabiting together as husband and wife, of persons related to each other within certain degrees.

§ 21. *Opening a grave* and removing a dead body for any unlawful purpose, or purchasing such body knowing it to have been unlawfully disinterred, is a crime. This offence is in some states punishable by imprisonment in a county jail, or by fine, and not in a state prison.

§ 22. Persons sometimes advise or are knowing to the commission of felonies, but are not actually engaged in committing them. Such are *accessories*. He who advises or commands another to commit a felony, is called an *accessory before the fact*, and is punished in the same manner as the principal. If he conceals the offender after the offence has been committed, or gives him any aid to prevent his being brought to punishment, he is an *accessory after the fact*, and may be imprisoned or fined.

EXERCISES.

§ 1. By what authority are the different crimes defined, and their punishment declared?

§ 2. What are the principal crimes punishable by death?

§ 3. What kind of crimes are called capital? Define capital. How, probably, came this word to be thus applied?

Define treason, murder, &c., to the end of the chapter.

CHAPTER XLII.

Offences punishable by Imprisonment in a County Jail, or by Fines; General Provisions concerning Crimes; Arrest and Examination of Offenders

§ 1. *Assault and battery* is unlawfully to assault or threaten, or to strike or wound another. Besides being liable to

fine and imprisonment, the offender is liable also to the party injured for damages.

§ 2. A *riot* is the assembling together of three or more persons, with intent forcibly to injure the person or property of another, or to break the peace; or agreeing with each other to do such unlawful act, and making any movement or preparation therefor, though lawfully assembled. When riotous persons are thus assembled, and are proceeding to commit offences, any judge, justice, sheriff, or other ministerial officer, may in the name of the state command them to disperse. If they refuse, the peace-officers are required to call upon all persons near to aid in taking the rioters into custody. Persons refusing to assist may be fined.

§ 3. A sheriff or other officer voluntarily suffering a prisoner charged with or convicted of an offence, to *escape* from his custody, is guilty of a misdemeanor. To *rescue* a prisoner thus charged or convicted, is punishable in a similar manner. It is also a misdemeanor to assist a criminal, with a view to effect his escape, though he does not escape from jail.

§ 4. A person taking upon himself to act as a public officer, and taking or keeping a person in custody unlawfully or without authority, is *false imprisonment;* for which the offender may be fined or imprisoned.

§ 5. Besides the offences which have been defined, are the following which are recognized as such in some or all of the states, and punished either by fine or imprisonment:

Attempting to extort, by threats, any money or other benefit; fraudulent conveying or concealing property to defraud creditors; conspiracies by two or more persons to commit an offence; receiving a reward to conceal a misdemeanor; wilfully committing trespass, by cutting down or carrying away any wood or timber, or injuring fruit, ornamental or shade trees.

§ 6. Also the following: Voting at an election more than once; physicians or others when intoxicated, prescribing medicines endangering life; druggists or others keeping poisonous articles for sale without having them labeled with the words "poison;" maliciously killing or wounding animals belonging to another, or cruelly beating his own or an-

other's; wilfully opening or reading sealed letters addressed to another, except in cases punishable by the laws of the United States; removing or defacing any monument, milestone, or guideboard; maliciously injuring or destroying a public bridge, toll-gate, or mill-dam.

§ 7. *Disorderly persons and practices.* There are numerous classes of persons who corrupt the morals and disturb the peace and good order of society; among whom are the following: men who threaten to run away and leave their families to be supported by the public; persons pretending to tell fortunes; keepers of houses for the resort of drunkards, gamesters, or other disorderly persons; persons having no visible calling, but who for the most part support themselves by gambling; all common showmen, rope dancers, and other public actors; keepers of gaming tables and other gaming machines or devices. Any person deemed to be disorderly, may be brought by warrant before a justice for examination, and if found to be a disorderly person, the justice may require him to give a bond, with sureties, for his good behavior; and if he cannot find sureties, he may be committed to jail.

§ 8. *Betting and gaming* is a disorderly practice, and unlawful. The loser of any wager or bet is not bound to pay it; or, if he has paid it, he may sue for and recover the same. The winner or loser at a game of chance, is, in certain cases, at least in some states, liable to a fine.

§ 9. *Racing horses* or other animals for any bet or stakes, is a nuisance or misdemeanor; and all parties concerned therein are liable to a fine or imprisonment, and all peace officers may disperse the persons assembled to attend the race; and judges and justices may issue warrants for arresting the offenders, and compel them to enter into recognizances, with sureties, for good behavior, and for their appearance at the proper court to answer for their offences.

§ 10. Profane *cursing and swearing*, and wilfully *disturbing a religious meeting*, are also among the disorderly practices which render the offenders liable to fines and penalties. Yet few vices are more common than profaneness. Not all profane words usually called swearing are punishable by law; but the use of them is not on that account the less sinful.

§ 11. *Arrest and examination of offenders.* Any judge or justice of the peace has power to issue process for apprehending any person charged with an offence. When a complaint is made to a magistrate, he examines the complainant on oath, and any witnesses that are produced; and if it appears that an offence has been committed, he issues a warrant, commanding the officer to whom it is directed to bring the accused before the magistrate.

§ 12. The magistrate first examines the complainant and witnesses in support of the prosecution; and next the prisoner, who is not on oath, and then his witnesses. If an offence has been committed, the magistrate binds, by recognizance, the prosecutor and all material witnesses, to appear and testify against the prisoner, at the next court at which the prisoner may be indicted and tried.

§ 13. In some states the magistrate himself has power to try persons thus charged with offences of the lower grade. In certain other states, it is left to the choice of the prisoner to be bound over for trial at the county court, or to be tried by the magistrate, and thus to have the matter at once disposed of.

§ 14. If either the offender does not choose to be tried by the justice, or the justice has not power to try him; and if the offence is one for which he may be let to bail, the magistrate may take bail for his appearance at the next court. But if no bail is offered, or if the offence is not bailable, the prisoner is committed to jail until the next session of the court having power to try him. But he must be indicted by a grand jury before he can be tried.

§ 15. The reason why offenders are sometimes arrested and examined before their case is brought before a grand jury, is to prevent their escaping before the next county court, as grand juries sit only during the terms of courts.

§ 16. The way in which bail is taken is this: the accused gives a bond in such sum as the justice or judge shall require, with one or more sureties, who are bound for the appearance of the accused at the next court, or in case he shall not appear, then to pay the sum mentioned in the bond. The word *bail* is from a French word meaning to deliver, or to lease. Hence, the justice *bails*, lets free, or delivers to his

sureties, the party arrested. Hence also the surety is said to bail a person when he procures his liberation. The bond or obligation of the surety, is in law called a *recognizance*, as is also the bond given by the prosecutor and witnesses for their appearance against the prisoner.

EXERCISES.

§ 1. Define assault and battery. For what is the offender liable?

§ 2. Define riot. By what authority, and how may riots be suppressed?

§ 3. What is here pronounced criminal in regard to aiding the escape of prisoners?

§ 4. What is false imprisonment?

§ 5, 6. Mention some of the offences here contained in the general enumeration.

§ 7. What kinds of persons are usually declared disorderly? How may they be treated?

§ 8. How does the law regard betting and gaming?

§ 9. How is horse racing regarded? How may racing assemblies be dispersed?

§ 10. Are there any laws against profane swearing and the disturbing of religious meetings? Is any profane swearer a good man?

§ 11. By whose authority are offenders arrested and examined?

§ 12. Describe the proceedings of the justice on the examination.

§ 13. What provision is made in some states for immediate trials?

§ 14. In case no immediate trial is had, what is done?

§ 15. If persons charged with crime can not be tried until indicted by a grand jury, why are they arrested before thus indicted?

§ 16. Describe the manner of taking bail. Define the term. What is a recognizance?

CHAPTER XLIII.

Liberty of Speech and of the Press; Writ of Habeas Corpus; Liberty of Conscience.

§ 1. THERE are certain important rights secured to the people of this country, which have not yet been duly noticed. They are among the most valuable ever enjoyed by a free people: indeed, where they are not enjoyed, real freedom can not be truly said to exist. Hence ample provision has been made in all our constitutions to secure the free enjoyment of these rights.

§ 2. The right which we will first notice, is the right of every citizen "freely to speak, write, and publish his sentiments" on all subjects; usually termed, "*the liberty of speech and of the press.*" The word press is here used in its more comprehensive sense, denoting the general business of printing and publishing: hence the liberty of the press is the free right to publish books or papers without restraint, except such as may be necessary to prevent infringements on the natural rights of other men.

§ 3. It was formerly common among the monarchical governments of Europe, to prohibit persons from speaking against the government or its officers, however bad their character or acts might be. Books and papers could not be issued without being first examined by persons appointed by the government. These restrictions upon the freedom of speech and of the press, have however been essentially relaxed, as the principles of liberty have been advancing in those countries. In the United States no law can be passed which shall prevent the humblest citizen from censuring the conduct of the highest officer of the government.

§ 4. But it must not be supposed that men may speak or publish against others whatever they please; for the same section of the constitution which secures freedom of speech, makes us "responsible for the *abuse* of that right." Without some restraint, men might, by false reports, or malicious publications, injure the good name, the peace, or the prop-

erty of others. Nor may we, in all cases, speak even the truth of others, if thereby we should injure them.

§ 5. To defame another by a false or malicious statement or report, is either slander or libel. When the offence consists in words spoken, it is *slander;* when in words written or printed, it is called *libel.* As a slander in writing or in print is generally more widely circulated, and likely to do greater injury, it is considered the greater offence. Hence damages may sometimes be recovered for slanderous words printed, when for the same words merely spoken, a suit could not be maintained.

§ 6. It has just been stated, that we may not always even speak the truth of others. By the common law of England, the libel was considered as great when the statement was true as when false, because the injury might be just as great; therefore, when prosecuted for libel, a man was not allowed to prove to the jury the truth of his statement. Such may be considered the law in this country, except where special provision to the contrary has been made by law or the constitution.

§ 7. But it may sometimes be proper to speak an unfavorable truth of others; hence, a clause has been inserted in most of our constitutions, declaring that "the truth *may* be given in evidence to the jury, and if the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted." In the state of Vermont, however, and perhaps a few other states, if the party prosecuted proves the truth of his statements in any case, he is acquitted.

§ 8. In case of slander, a man is liable only for damages in a civil action; but for libel, a person is not only liable for private damages, but he may also be indicted and tried as for other public offences.

§ 9. Another of the rights alluded to, is the privilege of the "writ of *habeas corpus.*" This is a Latin phrase, and means, have the body. This privilege was long enjoyed by the people of Great Britain before the settlement of the colonies, and by the colonists as British subjects, to the time of their independence. It is not strange, therefore, that a people appreciating the blessings of liberty, should in estab-

lishing a government of their own, insert this provision in their constitution.

§ 10. A person committed, confined, or restrained of his liberty for a supposed criminal matter, or under any pretence whatsoever, may, before the final judgment of a court is pronounced against him, petition a competent court or judge, stating the cause of complaint. The judge then issues a writ against the party complained of, commanding him to bring before the court or judge, the body of the person confined; and if he shall refuse to do so, he may be imprisoned. If, upon examination, it appears that the complainant has been illegally confined, the judge may discharge him.

§ 11. *Liberty of conscience* is the liberty to discuss and maintain our religious opinions, and to worship God in such manner as we believe most acceptable to him. History informs us of many countries in which the people have been prohibited the enjoyment of this most valuable of all human rights. Even in some called Christian, thousands have been put to death for the expression of their religious opinions.

§ 12. But the rights of conscience are now more extensively tolerated. In some countries, however, there is still what is called an established religion; that is, some religious denomination receives the support of the government, as in Great Britain. This is called "a union of church and state." But in this country the government does not interfere in religious matters, except to protect and secure to every denomination, "without discrimination or preference, the free exercise and enjoyment of religious worship."

EXERCISES.

§ 1. By what instrument are our most valuable rights secured?

§ 2. What is implied in "liberty of speech and of the press?"

§ 3. What restrictions upon this liberty formerly prevailed in other countries?

§ 4. May men in this country speak and publish of others what they please? Is any restraint of this kind an abridgment of a man's national rights? Why not?

§ 5. What is the difference between slander and libel? Which is the greater offence?

§ 6. Does common law make a distinction between true and false statements as to their constituting a libel?

§ 7. What provisions have been made in this country in this respect?

§ 8. Is a person liable to the same extent for slander as for libel?

§ 9. Define *habeas corpus*. How came this right to exist in this country?

§ 10. Describe the nature and effect of a writ of habeas corpus.

§ 11. What is liberty of conscience? Can you name any countries in which men have suffered death for expressing their religious opinions?

§ 12. Can you name any countries where any form of religion is patronized by government?

CHAPTER XLIV.

Of the Government of the United States.

§ 1. It has been attempted, in the foregoing chapters, to illustrate, in a clear and familiar manner, the principles of civil institutions in their application to the government of the states. If the young reader has carefully studied these chapters, it is presumed he now understands how the powers of government in a state are divided; and by whom and in what manner these powers are exercised; and what are his rights and duties as a citizen of the state in which he resides.

§ 2. It will be next in order to treat of the government of the United States, and to show what are our relations to it; for the youngest student in political science probably knows, that while he is a citizen of a state, and is subject to its government and laws, he is at the same time a citizen of the United States. And as he is subject also to the laws and government of the United States, and will soon have duties to discharge as a citizen under this government, it is neces-

sary to know what relation he sustains to the same, and also what relation the state governments and the government of the United States bear to each other.

§ 3. The government of this country is complicated. Not only is there a complete government in each of the thirty states of the Union to which the people are subject, but the people of these several states are united in *one general government*, whose powers control, in certain matters, the people and governments of the states. The form of this government is similar to that of state governments, its powers being divided into legislative, executive and judicial; and its constitution is called the "Constitution of the United States." The people of the states being thus incorporated into one great nation under a general constitution, this government is sometimes called the *national government*. The several states being united in a *confederacy*, the government is also called the *federal government;* the word federal being derived from the Latin, *fœdus*, and signifying a league, or contract, or alliance.

§ 4. To learn the nature of the general government, and our relations to it as citizens of the United States, we must go back to the time when the American colonies were subject to great Britain. The colonies, though they were all subject to that country, had no political connection with each other. They were, in this respect, as independent of each other as so many different nations. Hence there was no such thing as being a citizen of the United States. Every person was only a citizen of the state in which he resided.

§ 5. During the controversy with Great Britain, it became necessary for the colonies to agree upon some general measures of defence. For this purpose, the first great continental congress, composed of delegates from the several colonies, met at Philadelphia on the 4th of September, 1774. The next year, in May, another congress met to propose and to adopt such farther measures as the state of the country might require; and the same congress, on the 4th of July, 1776, declared the colonies to be "free and independent states."

§ 6. This declaration was called "The unanimous Declaration of the United States of America:" but the states were

united only in certain measures of safety. There was no government which exercised authority over the states. The people were subject to their respective state governments only. They were not yet incorporated into one nation for the purpose of government, as now, under a constitution. Hence, they were not yet properly citizens of the United States.

§ 7. To provide effectually for the future security, as well as the immediate safety of the American people, congress deemed it necessary that there should be a union of the states under some general government; and in November, 1777, that body agreed upon a plan of union. The articles were called "Articles of Confederation and perpetual Union between the States;" and were to go into effect when adopted by the legislatures of all the states. Some of the states were slow to agree to the articles; but they were finally adopted, March 1, 1781.

§ 8. The states were now united in a kind of national government, but it was not such a one as the present; as will appear by noticing a few points of difference between them. In the first place they were different in *form*. The confederation was merely a *union of states*. It had not, as the national government now has, the three departments of power, legislative, executive and judicial. It had only a legislature, and that consisted of a single body, called congress; and to this congress the several states were entitled to send an equal number of delegates, which number must be at least two and not exceeding seven.

§ 9. The nature of that union as a mere confederation of states, appears farther from the manner in which questions were determined by congress. A question was not decided by a majority of the delegates voting in its favor, but by a *majority of states*. If a majority of the delegates of any state voted in favor of a measure, that state was set down in the affirmative; but if a majority voted against the measure, the state was placed in the negative. Thus each state gave but one vote; and a question having in its favor a majority of the states, was declared to be carried. If an equal number of the delegates of a state voted for and against a proposition, such state was said to be *divided*, having no vote.

So also a vote of a state was not counted if there were not at least two delegates present and voting.

§ 10. That government differed from the present also in regard to its *powers*. The confederation was a very weak government. Its powers were vested in congress. The congress was to manage the common affairs of the nation, and to enact such laws (if laws they might be called) as should be deemed necessary; but a main defect in the system was, that congress had no power to carry its requisitions into effect.

§ 11. For example, it belonged to congress to ascertain the number of men and the sums of money to be raised to carry on the war, and to call on each state to raise its due share; but congress could not compel a state to do so. The government had no power to lay and collect taxes; it was dependent upon the states for raising the money to defray the public expenses. It could, and did, to some extent, borrow money in its own name, on the credit of the Union; but it had not the means of repaying the money so borrowed. The power being reserved to the states to lay the taxes, it depended upon the good will of each of the legislatures of the thirteen independent states whether a measure of defence could be carried into operation. Indeed, in some few instances, states either refused, or reluctantly yielded compliance with the orders of the federal government.

§ 12. It may be asked, how so weak a government could keep the states united. Probably it could not have done so but for the peculiar condition of the country at that time; for it appears that after the return of peace this government was found very inefficient. The plan was devised in a time of war, and had respect to the operations of war rather than to a state of peace; and a regard to their own safety induced the states to obey the orders of congress. It was therefore a sense of danger from abroad, rather than any power in the government, that kept the states together.

§ 13. The case of the states at that time was like that of persons who readily unite in resisting a common danger, or in pursuing a common interest; but when the danger is passed, and the desired object attained, their union and friendship are easily broken. So it was with the states. The war

being over, they did not continue to act in harmony. Laws were enacted in some states, giving their own citizens undue advantages over the citizens of other states; and soon the good feeling which had existed was interrupted; and in a few years the jealousies and disputes between the states became such as threatened to break up the union.

§ 14. It was now evident that to keep the states united in time of peace with foreign nations, there must be a different government; a government possessing more extensive powers, which could in all needful cases control the action of the state governments. Having been thereto requested, congress called a convention to revise and amend the articles of confederation. All the states, Rhode Island excepted, chose delegates, who met at Philadelphia in May, 1787. Although it seems to have been generally intended only to alter the articles of confederation, it was proposed to the convention to form a new government, different both in its form, and in respect to its powers. This proposition was agreed to by a majority of the convention, and after a long and arduous session which closed in September, the present constitution was adopted by the convention.

§ 15. On examining the constitution, we see that it differs also in its *nature* from the former government. This appears from the manner in which it was formed and adopted. The articles of confederation were framed by congress, the members of which were appointed by the state legislatures; and when so framed, they were sent to the state legislatures, to be approved by them before they could go into effect. The adoption of these articles was therefore the act of the *legislatures* of the states, and not the act of the *people* of the states; and the confederation was a *union of states*, rather than a *union of the people* of the states.

§ 16. The constitution, on the other hand, was framed by men appointed expressly for that purpose, and submitted for approval, not to the state legislatures, but to the people of the states, and adopted by state conventions whose members were chosen for that purpose by the *people*. Hence, the constitution is virtually the act of the people; and the union is not a mere confederation of states, but as the preamble de-

clares, "a more perfect union," formed by "THE PEOPLE OF THE UNITED STATES."

EXERCISES.

§ 1. How is the power of the people in their political capacity exercised; and in what acts? How is the civil power of the state divided?

§ 2. Is a person a citizen only of the state in which he resides? To what other government does he sustain the relation of citizen?

§ 3. Under what instrument are the people of the several states incorporated into one general government? What is the general plan of this government?

§ 4. What was the political condition of the colonies before the revolution?

§ 5. Where and when did the first great congress meet to devise measures for the defence of the country? What was done at subsequent meetings?

§ 6. Did the people of the states become united in government by any measures then adopted?

§ 7. What plan of union was agreed on by congress in 1777? When was it finally adopted by the states?

§ 8. What was the nature of the union under the confederation? Of what powers was it destitute?

§ 9. In what manner did that congress decide questions?

§ 10, 11. In what, mainly, did the weakness and inefficiency of that system consist?

§ 12. What general cause induced obedience on the part of the states to the requirements of congress?

§ 13. In what did the inefficiency of this government appear after the war?

§ 14. What measure was taken to alter the government? When did the convention begin and end its session?

§ 15, 16. State the difference between the constitution and confederation in the manner of their formation and adoption. Also the difference in the nature of the unions under the two systems respectively.

CHAPTER XLV.

Of the Legislative Department.

§ 1. The legislature, called congress, is composed of two branches, a senate and a house of representatives. The senate consists of two members from each state, chosen by the legislature, for six years. This body is constituted upon the same principles, nearly, as the old congress, in which all the states were entitled to an equal representation, and the members of which were also chosen by the legislatures.

§ 2. A senator must be thirty years of age; and he must have been nine years a citizen of the United States, and must be an inhabitant of the state for which he is chosen

§ 3. The house of representatives is constituted upon the same principle as the house of representatives in most of the states. As the members of that branch of a state legislature are apportioned among the counties (in the New England states the towns) according to the number of inhabitants in each, so is a state entitled to a representation in the house of representatives of the United States in proportion to its population. Representatives are elected for two years, by the people of the states.

§ 4. The constitution does not limit either house to any definite number of members. Whenever a new state is added to the union, two members are added to the senate, and one or more to the house of representatives.

§ 5. The number of representatives may change, while the number of states remains the same. After the taking of a new census, which is done every ten years, congress determines what number of inhabitants shall be entitled to a representative for the next ten years; which number, the constitution declares, shall not be less than 30,000.

§ 6. But a representative for every 30,000 inhabitants, as the population increases, would make the house too large. At this rate there would be, at present, more than 500 representatives. This number would be too great. It would be a needless expense to pay so many men to make laws,

when a smaller number can do the business as well, and with greater dispatch. Hence congress, after the census of 1840, fixed the number of inhabitants as the ratio of representation from each state, at 70,680. After the first census taken under the constitution, 1790, the ratio was fixed at 33,000, and the number of representatives was 106. A new apportionment has been made after every enumeration, and the ratio altered. After 1840, it was fixed at 47,700, and the number of representatives was 240. The number at present, (1848,) is 230.

§ 7. Representatives are chosen thus: Each state is divided, by the legislature, into as many districts, called congressional districts, as it has representatives to elect; and the people of each such district choose one representative. Representatives to congress are in most states, it is believed, chosen at the time of the general state election, every two years.

§ 8. In the southern states, a large portion of the people are slaves. In ascertaining the number of representatives for the slaveholding states, only three-fifths of the slaves are counted. It was contended by some of the delegates in the convention that framed the constitution, that the people of the slave states ought not to be represented for their slaves, because their slaves were property, and no property in the free states entitled its owners to representation. After much debate, it was at length agreed that every *five slaves* should be counted as *three free* citizens.

§ 9. Hence it appears, that the slaveholding states have, according to this rule of representation, a great advantage over the other states in respect to their power in the government; the number of their representatives being much greater in proportion to their *free* population, and there being no good reason for taking into account their slaves, who have no interest at all in the government.

§ 10. The extent of this advantage may be judged of by the following examples given by way of illustration. Suppose a state to contain 600,000 free white persons, and 500,000 slaves. Three-fifths of the number of slaves is 300,000; which number added to the number of free persons, makes 900,000. From which it appears, that the state sup-

posed would have just *three* representatives for every *two* that it would have if it contained the 600,000 free persons and no slaves

§ 11. But the non-slaveholding states expected in return an equivalent for this advantage given to the slave states. Turn to the constitution, article 1, section 2, and it will be seen, that *direct taxes*, as well as representatives, are to be apportioned according to the enumeration of slaves. To show the effect of this provision, let us suppose it necessary for congress to levy a direct tax upon the people of the states, and that there are two states in the Union, the one containing a population like that of the state supposed in the last preceding section, and the other the 600,000 free persons and no slaves. Now as in apportioning representatives the former would have three for every two of the latter; so also in apportioning to each state its quota of taxes, the slave state would be required to raise *three* dollars for every *two* to be raised by the free state.

§ 12. But this expected advantage has not been realized by the non-slaveholding states, as direct taxes for defraying the expenses of the general government are not necessary. The treasury of the United States has for many years been amply supplied by duties on goods imported; and congress has found it necessary to exercise its power of direct taxation only two or thee times since the adoption of the constitution.

§ 13. A representative must be twenty-five years of age, and must have been seven years a citizen of the United States. Aliens, or foreigners, therefore, cannot be elected until seven years after they have been naturalized.

§ 14. The manner of organizing the houses, and of passing bills, as will be seen from the first article of the constitution, is similar to that which is practised by the state legislatures.

§ 15. Members of congress receive for their services, eight dollars a day. The speaker of the house of representatives, and the president of the senate *pro tempore*, when the vice-president is absent, receive sixteen dollars a day. Members of congress also receive a day's compensation for every twenty miles travel to and from the seat of government.

This large compensation for travel may not have been extravagant at an early day, when traveling was more difficult; but it is believed no good reason exists for its continuance. By the present mode of travel, a member may go from Buffalo to Washington and return in six days, at a small expense, for which he receives a sum equal to that received for more than sixty days' service. Members from some of the more distant states, traveling by long and circuitous routes, yet performing them within a few days, receive for *mileage*, as it is called, a sum fully equal to what they receive for their whole service during the sessions of congress.

EXERCISES.

§ 1. Of what two assemblies is congress composed? How is the senate constituted? How, and for what term are senators chosen?

§ 2. What are the qualifications of a senator?

§ 3. How is the house of representatives constituted? For what term, and how are representatives elected?

§ 4. 5. How is the number of senators and representatives limited?

§ 6. What is the lowest ratio of representation allowed by the constitution? Why has the ratio been increased from time to time?

§ 7. How are representatives elected?

§ 8. How are slaves counted in forming the basis of representation?

§ 9. What advantage does this give to the slave states?

§ 10. Show by example the operation of this rule of apportioning representatives

§ 11. What advantage did the free states expect in return? Show by example the advantage the free states would have in case of direct taxation.

§ 12. Why has not this advantage been realized by the free states?

§ 13. What are the qualifications of a representative?

§ 14. How are the houses of congress organized, and what is their manner of passing bills?

§ 15. What is the compensation of members of congress?

CHAPTER XLVI.

Of the Executive Department.

§ 1. The executive department of the general government, is constituted in a manner similar to that of a state government. The chief executive officer is the president of the United States. He is elected for four years. There is also a vice-president, chosen at the same time, and for the same term. The general duties of these officers are much like those of the governor and lieutenant-governor of a state.

§ 2. A president must be thirty-five years of age, and a natural born citizen of the United States. When the office of president becomes vacant, the vice-president becomes president; and a president of the senate, *pro tempore*, chosen by the senate for the purpose, takes the place of the vice-president.

§ 3. In electing a president, the people do not vote directly for him. The voters of each state choose a number of men, equal to the number of senators and representatives to which it is entitled in congress. These men, thus chosen in the several states, elect the president and vice-president. Hence they are called electors of president and vice-president or presidential electors.

§ 4. These electors are not chosen in the same manner as senators and representatives are chosen. The names of two men corresponding to the two senators to which the state is entitled in congress, together with the names of as many other men as there are representatives of the state in congress, one to be taken from each congressional district, are all placed upon one ballot; so that every voter votes for the whole number of presidential electors to be chosen in the state. These electors are chosen on the same day in all the states; which day is the Tuesday next after the first Monday of November.

§ 5. The electors of president do not all meet in one body. Those of each state meet by themselves, in their own state, on the first Wednesday of December, and vote for president

and vice-president; and make a list of the persons voted for, and the number of votes for each; which list is sent to the president of the senate, at the seat of government of the United States, before the first of January. On the second Wednesday of February, the president of the senate, in the presence of all the senators and representatives, opens all the certificates, and the votes are counted. The person having a majority of all the electoral votes for president, is elected.

§ 6. But a person may have the highest number, that is, a plurality, of the electoral votes, without having a *majority*. If no person has a majority of the electoral votes, the house of representatives must choose the president from those candidates, not exceeding three, who had the highest numbers of the electoral votes. But in so doing, the members do not all vote together, as when passing bills; but those of each state vote by themselves; and the candidate who receives the votes of a majority of the representatives of a state, has but one vote for each such majority; from which it appears, that there are only as many presidential votes as there are states; and the person who receives the votes of a majority of the states, is elected.

§ 7. This mode of electing a president may be illustrated by the election of 1824, when a president was elected in this manner. The electoral vote was divided upon *four* candidates; Andrew Jackson having received 99 votes, John Quincy Adams 84, William H. Crawford 41, and Henry Clay 37. Neither candidate having received a majority of all the electoral votes, the election of president devolved upon the house of representatives, and was to be made from the three candidates having received the highest numbers of the electoral votes. A majority of the states voting for Mr. Adams, he was elected president.

§ 8. If there is no election of vice-president by the electors, the senate, in a body, chooses one from the two having the highest numbers of the electoral votes. The person receiving the votes of a majority of the whole number of senators, is elected vice-president.

§ 9. The president and vice-president go into office on the 4th day of March next after the election, and end their term

on the 3d day of March, four years thereafter; the same days on which senators every six years, and representatives every two years, commence and end their regular terms of office.

§ 10. The powers and duties of the president are numerous, and some of them very important. They are in their nature much the same as those of a governor of a state. They will be found mentioned in the constitution, article 2, sec. 2, 3. The principal duty of the vice-president is to preside in the senate.

EXERCISES.

§ 1. For what term are the president and vice-president elected?

§ 2. What are the qualifications of a president? How are vacancies in the offices of president and vice-president supplied?

§ 3. By whom is the president elected? How are the presidential electors chosen, and what is their number? What is the number in this state?

§ 4. Describe the manner of choosing presidential electors. On what day are they chosen?

§ 5. State the time, place, and manner of making the election and counting the electoral votes?

§ 7. How is the election made when no person receives a majority of the electoral votes?

§ 7. How was the president elected in 1824?

§ 8. How is the vice-president chosen when the electors fail to elect?

§ 9. When does the presidential term of office commence and expire?

§ 10. Mention some of the principal duties of the president?

CHAPTER XLVII.

Of the subordinate Executive Departments.

§ 1. The general executive business of the nation, excepting what is done by the president in person, is performed in the several executive departments, of which the following are the head officers: the secretary of state, the secretary of the treasury, the secretary of war, the secretary of the navy, the attorney-general, and postmaster-general. These officers are consulted by the president on important public matters; and hence they are called "the cabinet." They are appointed by the president and senate.

§ 2. The *secretary of state* performs many duties similar to those of a secretary of a state government. Besides these, he transacts much of the business with foreign countries. If the president has instructions to give to our public ministers abroad, these instructions are communicated by the secretary of state; and he also conducts the correspondence, and transacts the business to be done, with the ministers of foreign countries residing here. The secretary has a number of clerks to assist him. The business of granting patents for new inventions is done in this department, by a *commissioner of patents*, under the direction of the secretary.

§ 3. The *secretary of the treasury* conducts the financial affairs of the government. His duties are nearly the same as those of the comptroller or auditor of a state. There are, in this department, two comptrollers and five auditors to examine and settle the public accounts, and collect the debts due the United States; a treasurer to keep and pay out the money; a register, who keeps accounts of the goods imported and exported, and of the shipping employed in our foreign trade; a solicitor; and a commissioner of the land-office; besides a recorder and a number of clerks.

§ 4. The business of the *secretary of war* relates to the military affairs of the United States, and to Indian affairs. The nation supports what is called a standing army, which consists, at present, of about 10,000 armed men, stationed in

different parts of the United States, and ready for service when wanted. Causes have recently occurred which, it is presumed, will require a considerable increase of our standing army. The secretary is assisted by a number of subordinate officers and clerks.

§ 5. In this department is transacted the business relating to *military pensions*. A *pension* is a yearly allowance to a person by the government for past services. In this country pensions are granted for services in war. Laws were early enacted by congress granting pensions to persons disabled in the war of the revolution so as to be unable to support themselves by manual labor. To the pension list were afterwards added those who were disabled in the war of 1812. By later laws, the pension list has been extended to all who had served for six months at least in the army or navy during the war of the revolution, and to their widows during their lives. The usual allowance to pensioners is eight dollars a month. Those who were officers receive a greater compensation.

§ 6. The *secretary of the navy* superintends the business relating to the navy. A *navy* is the fleet, or ships of war, which a nation keeps to defend itself in time of war, and to protect the trade of its citizens on the high seas in time of peace. There are also employed in this department three *navy commissioners*, and a number of clerks.

§ 7. The *attorney-general* prosecutes and conducts all suits in the supreme court in which the United States are concerned, and gives his advice upon questions of law, when requested by the president or heads of departments.

§ 8. The *postmaster-general* establishes post-offices, appoints postmasters, and provides for carrying the mails. The business of this department is very extensive. There is a postmaster in almost every town in the union; in some towns there are several. Letters and papers are sent by mail to the most distant parts of the United States in a few days.

§ 9. Every postmaster is required to keep an account of all the letters sent from and received at his office, and of the names of the offices to which sent, and from which received; and also the letters on which the postage was paid when

mailed, and on which it was unpaid, and of those which are sent free of postage: and at the end of every quarter such account is sent to the postmaster-general, together with a statement of all moneys received for postage and paid out by each postmaster. All letters which were advertised as remaining in his office at the end of the preceding quarter, and which still remain in the office, are put up in a package, and sent to the general post-office, where they are opened, and, if found to contain any thing of sufficient importance, are returned by mail to the writers of them.

§ 10. The returns thus made to the postmaster-general, are all examined, to see whether they are correct or not. The examination of the account of every postmaster in the union, the making of contracts for carrying mails on all the post-roads, and a variety of other business, require the labor of a great number of assistants and clerks.

§ 11. Postmasters whose compensation is below a certain sum specified by law; certain civil officers at the seat of government; and members of congress from thirty days before the commencement of the first session of the term for which they are elected, until the commencement of the first session of the next congress, may, to a limited extent, receive and send letters and papers free of postage, by *franking* them; which is done by writing their names and offices on the outside. And the publisher of every newspaper may send free, and without a written frank upon it, a copy of his paper to the publisher of every paper in the United States.

§ 12. The rates of postage were much reduced in the year 1845. On letters weighing half an ounce or less, and carried any distance not exceeding five hundred miles, the postage is *five* cents; any greater distance, *ten* cents. Newspapers are carried any distance within the state for *one* cent; if carried out of the state, *one* cent is charged for any distance not exceeding one hundred miles; for any greater distance, *one cent and a half*. Rates are also fixed for carrying pamphlets, magazines, circulars, &c.; but as efforts are making to effect farther changes in the rates of postage, and as alterations will probably soon be made, it is deemed inexpedient to give the rates of all the various kinds of publications.

§ 13. The number of post-offices in the United States is nearly 15,000. The amount annually received for postage at all the post-offices, exceeds $2,000,000; and the expenses of the department, including what is paid for the transportation of the mail, amount to about the same sum. Postmasters receive for their services, a certain rate per cent. on the money received by them at their respective offices. This per centage varies, however, being greater or less when the amount of postages for each quarter is over or under a certain sum. There are a few post-offices whose post-masters receive fixed salaries.

§ 14. All the secretaries and postmaster-general, except the secretary of the treasury, report annually to the president, who lays their reports before congress. The secretary of the treasury reports directly to congress.

EXERCISES.

§ 1. Name the head officers of the several executive departments. As advisers of the president, what are they called?

§ 2. What are the principal duties of the secretary of state?

§ 3. What is the nature of the business of the treasury department? By what officers is this business done?

§ 4. To what do the duties of the secretary of war relate? What is said of the standing army?

§ 5. What is a pension? To whom are pensions granted?

§ 6. What is the business of the secretary of the navy? What is a navy?

§ 7. What are the duties of the attorney-general?

§ 8. What are the duties of the postmaster-general?

§ 9. Describe the manner of keeping the accounts at the several post-offices. What are *dead* letters? How are they disposed of?

§ 11. What is meant by franking? What persons enjoy the franking privilege?

§ 12. Mention the rates of postage on letters and newspapers.

§ 13. What is the number of post-offices in the Union? The receipts and expenditures? The compensation of post-masters?

§ 14. To whom do the heads of the departments make their annual reports?

CHAPTER XLVIII.

Of the Judicial Department.

§ 1. As has been stated, there was, before the adoption of the constitution, no established national judiciary. The necessity of such a tribunal to decide disputes between states, and other matters of a national character, having become apparent, power was given to congress to establish national courts.

§ 2. It is proper that all cases arising between citizens of the same state, as well as all crimes committed against its laws, should be tried by the courts of the state. But when cases arise under the laws of the United States, or between different states, or citizens of different states; or when crimes are committed on the ocean, or elsewhere beyond the jurisdiction of a state, it is evident that some other than a state court ought to try such cases. For example, if a person should violate the laws of congress made for the collection of duties on goods imported, he must be prosecuted in a court of the United States. So a murder committed at sea, beyond the limits of a state, is properly tried in a national court. Piracy, which is robbery on the high seas, is always tried in such court. And so all other cases mentioned in article 2, section 2, of the constitution.

§ 3. The lowest national courts are the *district courts.* Every state contains at least one district; a few of the large states two to each. In each district is a judge, called a *district judge,* who has power to hold a court. There are also in each district a *district attorney* to attend to suits on the part of the United States, and a *marshal,* whose duties in this court are like those of a sheriff in state courts. This

court has four stated terms a year. It tries certain kinds of civil cases, and the lower crimes against the laws of the United States.

§ 4. The *circuits* embrace larger territories than the districts. There are nine circuits in the United States, each including several states. In each there is a *circuit judge*, who holds a court in his circuit twice a year. The judge of the district within which the court is held, sits with the circuit judge in holding a circuit court. Besides certain kinds of civil causes, this court tries the highest crimes against the laws of the United States; as murder within forts, arsenals, and other territory, the property of the United States, or on the high seas. In consequence of the late increase of the number of states and of population, an addition to the number of circuits has been proposed, and will probably soon be made.

§ 5. The *supreme court* consists of all the judges of the circuit courts, one of whom is the *chief justice* of the supreme court. There are but few causes which originate or commence in this court; its principal business is to rejudge cases that are brought up from the circuit courts. It holds one session annually, at the seat of government, commencing on the second Monday of January, and continuing about eight weeks.

§ 6. An important object of a supreme court of the United States, is to secure a correct and uniform meaning or interpretation to the constitution and laws of the United States. State laws, and decisions in state courts, are sometimes made which are supposed to be repugnant to the constitution and laws of the United States. And what may be pronounced constitutional by a court in one state, may be declared unconstitutional in another. Hence any case which has been tried in the highest or last court in a state, and which brings in question the constitution or laws of the United States, may be removed by writ of error to the supreme court of the United States, whose decision governs the judgment of all inferior courts throughout the Union.

§ 7. All judges of the United States' courts are appointed by the president and senate, and hold their offices for life, or during good behavior.

EXERCISES.

§ 1. By what authority are national courts established?

§ 2. What kinds of cases are tried in the courts of the United States?

§ 3. Which are the lowest of these courts? Describe these courts and their jurisdiction.

§ 4. Which are the next higher courts? By whom are they held? What cases are tried in the circuit courts?

§ 5. How is the supreme court constituted? What is its business? How often do these several courts sit in a year?

§ 6. What other important object is attained by a supreme court of the United States? From what state courts only may cases be brought to this court?

§ 7. How, and for what time, are judges of the national courts appointed?

CHAPTER XLIX.

Of the Powers of Congress.

§ 1. HAVING seen how the several departments of the general government are constituted, we proceed to the consideration of its powers. It is important that the extent of its power on all subjects be understood by every citizen, that he may know whether at any time it exercises power which does not belong to it. Although the constitution grants to it many powers which it did not formerly possess, yet it can exercise only such as are granted; whereas, the state governments possess and may exercise all powers which they have not surrendered to the general government.

§ 2. Most of the important powers of the government of the United States are vested in congress, and are expressed in the 8th section of the 1st article of the constitution. It is not compatible with the design and limits of this work to comment on all the powers enumerated in this section. Those only will be considered which are deemed of the great-

est importance, and more especially those the want of which led to the formation and adoption of the constitution.

§ 3. Perhaps the want of none of these powers was so sensibly felt under the confederation, as the first three here mentioned; and it is probably for this reason that they were placed at the beginning of the list. The first of these is the power "*to lay and collect taxes, duties, imposts and excises*;" the objects of which power are declared to be, "*to pay the debts, and provide for the common defence and general welfare of the United States.*"

§ 4. Congress had been obliged to borrow large sums of money to defray the expenses of the war. Several millions were borrowed from France and Holland. But congress had no power, as has been observed, to raise money by taxation. The government could not pay its debts, nor support itself. But by the power here given, it may raise money to any amount necessary for the objects stated in the constitution. And it may raise the money either by *direct taxation*, that is, by laying the tax directly on the *property* of the citizens, or by *indirect taxation*, which is by duties, imposts, and excises.

§ 5. *Duties* or *customs*, and *imposts*, have nearly the same meaning. The last, however, are properly taxes on goods *imported* only; the first apply to taxes on goods exported as well as on those imported. But as our government does not impose duties on exports, these three words practically signify the same thing. But *excise* has no reference at all to the exportation or importation of goods; it is a tax laid upon an article manufactured, sold, or consumed, *within* the country. Such, for example, is the duty paid by keepers of taverns and groceries for the privilege of selling liquors.

§ 6. Notwithstanding congress has power to raise money by taxation in several ways, it has seldom been found necessary to exercise it in any other way than by laying duties on foreign goods, and on the vessels in which they were imported. How effectual this mode of taxation has been, will appear from the following facts:

§ 7. At the close of the revolutionary war, the national debt amounted to $42,000,000, on which congress could not so much as pay the interest. Two years after the constitution went into effect, the debt had risen to $75,000 000; in

1804, to $86,000,000. From that time it gradually diminished until the commencement of the late war, in 1812, when it was reduced to $45,000,000. By that war, the debt was again increased, being in 1816, $127,000,000.

§ 8. Now the raising of so large a sum by a direct tax, would have been very oppressive. Wherefore congress exercised its power of taxation almost exclusively in laying duties on imports; and from the revenue thus raised, not only have the yearly expenses of the government been defrayed, but this vast national debt has long since been paid, leaving in the treasury a large surplus of about thirty millions of dollars, which, by an act of congress in 1836, was apportioned among the several states, to be kept and used by the states until called for by congress. Probably the return of the money will never be demanded.

§ 9. Equally necessary is the power next mentioned, "*to borrow money on the credit of the United States.*" Large sums of money are sometimes wanted to pay a debt before they can be raised from the revenues or regular income of the nation; and sometimes immediately, as in case of war. In such case, congress must either tax the people, or borrow the money. But who would lend the government, if it had not the means of paying? Hence we see the utility of both these powers. Capitalists are now willing to lend their money to the government, because, if other means of paying its debts should be insufficient, it has power to raise the money by direct taxation.

EXERCISES.

§ 1. To what extent may power be exercised by the general government and state governments respectively?

§ 2. In what branch of the general government are most of its powers vested?

§ 3. What is the first in the list of granted powers?

§ 4. What condition of the country rendered this power necessary? To what extent, and in what manner, may this power be exercised?

§ 5. Define duties, customs, imposts and excises.

§ 6. In what way has the national revenue been chiefly raised?

§ 7. State the amount of the national debt at different periods. When was it largest?

§ 8. By what means has this debt been paid?

§ 9. Why is the power to borrow money necessary?

CHAPTER L.

Powers of Congress, Continued.

§ 1. The power "*to regulate commerce with foreign nations,*" which is next in the list, seems to be in a measure connected with the first, "*to lay duties.*" It will be remembered that, before the war of the revolution, the colonies were dependent on Great Britain for manufactured goods. By the war, trade with that country was interrupted. But when peace was restored, the British again sent their goods into this country; but upon American produce and American vessels coming into British ports, they levied heavy duties. Thus was the trade of the two countries placed on an unequal footing. We wanted English goods, but England would not take the produce of our labor in exchange, without subjecting it to heavy duties.

§ 2. Some explanation may be necessary to enable young persons to understand the objects and unequal operation of this measure of British policy. One object was to secure a market at home for the products of agricultural labor. To show how this is done by taxing foreign products, let us suppose the cost of raising a bushel of wheat in England to be one dollar, and the cost of producing it here and transporting it to that market to be the same. If now a duty of 40 cents a bushel be laid upon foreign wheat, the English consumer, instead of buying it with this duty added, will buy of the English producer. But the American farmer has wheat for which he must find a market abroad; and in order to sell it in the English market, he must pay 40 cents on every bushel to the British government; or rather, he

must sell it for so much less to the English purchaser, who pays the duty to the government.

§ 3. The people of this country being nearly all employed at that time in agriculture, and consequently dependent upon foreign markets for the sale of the surplus products of their labor, they were compelled to submit to these duties. As the result of this system, the consumers in Great Britain obtained their supplies partly at home and partly from abroad; and the British government thus accomplished the two-fold object of encouraging and rewarding agricultural labor at home, and of drawing a large revenue into its treasury by taxing the same kind of labor in this country.

§ 4. Not possessing the means at that time of manufacturing to any considerable extent, the country was flooded with goods from Great Britain, for which our citizens must either pay in money, or in produce heavily burdened with duties. Hence some measures for regulating foreign trade became necessary. But congress had not the power to regulate commerce; the power belonged to the states. The states, acting separately, could not effect the object desired; and they were unable to agree upon any general system of measures.

§ 5. A convention to consist of commissioners from the several states was at length proposed, for the purpose of providing some remedy for the evils complained of. Commissioners from some of the states assembled; but for the want of the requisite power, nothing was accomplished. It was now apparent that a change in the government must be made before any effectual remedy for the evil could be provided. And as certain other changes in the government had been found necessary, congress, having been thereto requested, called a convention to revise and amend the articles of confederation. The labors of that convention resulted in the formation of the present constitution, in which we find the power to regulate commerce placed near the head of the list of the powers granted to the general government.

§ 6. It has just been remarked, that the two powers "to lay duties" and "to regulate commerce" seem to have a connection. Indeed, the former has been used to carry into effect the latter. One of the means by which it was intend-

ed to regulate our foreign trade, was the laying of duties upon foreign goods, with a view to check the excessive importation of them, and to encourage and aid our own citizens in supplying the deficiency by manufacturing for themselves. This appears farther from the fact, that congress exercised this power immediately. The first law but one passed under the present constitution, authorized "duties to be laid on goods, wares and merchandises imported," and for purposes, one of which was declared to be, "the encouragement and protection of domestic manufactures." It was by such regulations of her foreign trade that England had so strengthened her manufacturing interest, and acquired such advantages over other nations; and it was intended, by the adoption of a similar policy, to render this country less dependent upon others.

§ 7. It may be proper, however, here to observe, that for many years congress did not find it necessary to exercise this power to a very great extent. Soon after the constitution went into effect, the principal nations of Europe became engaged in war, in which England also became involved. A large portion of the population of those countries having been withdrawn from agricultural pursuits to serve in the armies, a foreign demand was created for the productions of our soil, and our people were enabled to supply themselves at less disadvantage with manufactures from abroad.

§ 8. But after peace had been restored in Europe, and the people had returned to their wonted employment, the principal foreign demand for our bread-stuffs ceased, and the severe effects of large importations of goods began again to be experienced. Congress now deeming it necessary to exercise, to a greater extent, its power to regulate trade by discouraging importations and encouraging domestic manufactures, commenced an effective system of protection in the year 1816. Although duties were imposed upon many articles, the great interest encouraged by the act of that year, was the maufacture of cotton goods, especially those of the coarser kinds.

§ 9. Since that period, laws have from time to time been passed, extending the like favor to the manufacture of iron and iron wares, woolen, and a great variety of other goods.

Manufacturing is now carried on very extensively in this country; our citizens being supplied in great part—with some articles almost exclusively—by our own manufacturers. A large portion of the people having thus been drawn into manufacturing and mechanical employments, and become consumers instead of producers of agricultural products, a market has been created at home demanding more of the grain, meat, and other products of agricultural labor, than is usually required to supply all foreign demand.

§ 10. Whether this is a wise measure for regulating the commerce of a nation, and how far our country is indebted to this policy for its general prosperity, are questions upon which statesmen differ in opinion—questions which it is not the design of this work to discuss. The above facts have been given principally to explain the objects of the power to regulate foreign commerce, and to show how and for what purposes it has been exercised.

§ 11. Congress has power also "*to regulate commerce among the several states.*" Without this power, each state might adopt regulations favorable to its own citizens, and injurious to the people of other states. This was actually done under the confederation; and to restore and preserve harmony, and to secure equal justice to the citizens of all the states, which could be done only by one uniform system for the whole, this power was given to the general government.

§ 12. Under the power to regulate commerce, congress has also made *navigation laws* — laws relating to the shipping of the nation. These laws require vessels to be measured, to ascertain how much they hold; and prescribe the manner in which they are enrolled or registered, and licensed, and in which they are to enter and leave ports; and the duties of the masters of vessels, declaring what papers they are to carry, &c.

§ 13. These regulations are especially necessary for the collection of the revenue arising from foreign commerce. There is, in every port of entry, a *collector of customs*, who superintends the collection of duties. When a vessel arrives, it is submitted, with the cargo, and all papers and invoices, to the inspection of the proper officers; and the goods sut

ject to duty are all weighed or measured, and the duties estimated according to law.

§ 14. On some articles a *specific* duty is charged, which is a duty of a certain amount on a pound, yard, or gallon; as, two cents on a pound of iron, or fifty cents on a yard of cloth. Others are charged with an *ad valorem* duty, which means a duty according to the value, being a certain per centage on the value of an article; as forty per cent. on what costs one dollar, would be forty cents; or thirty per cent. on every hundred dollars would be thirty dollars. In certain cases, *tonnage* duties are charged upon foreign vessels, which are duties of a certain amount per ton of the measurement of such vessels.

§ 15. All this business requires a vast amount of labor. Such is the extent of our foreign commerce at present, as to demand the employment of nearly five hundred men in business connected with the importation of goods and the collection of customs, in the city of New York alone. The amount derived from customs or duties in the United States annually, is much varied by contingent causes. The average annual amount of receipts for the last ten years is about $25,000,000. Besides this a considerable sum is annually received into the treasury from the sale of public lands. These two sources produce nearly the whole revenue of the nation; from which are paid the salaries of officers, and other expenses of the general government.

EXERCISES.

§ 1. What was the state of trade between this country and Great Britain after the war of the revolution?

§ 2, 3. Can you show, by examples, how the taxing of American produce operated to the injury of this country and the benefit of Great Britain?

§ 4. Why could no relief to the country be provided at that time?

§ 5. What unsuccessful attempt was made to provide a remedy? How was the power obtained to counteract the effects of British policy?

§ 6. What two powers were given to congress for this

purpose? By the exercise of what power did congress attempt to regulate our foreign trade?

§ 7. What cause rendered the exercise of this power for a time less necessary?

§ 8. How was this country affected by the restoration of peace in Europe? What measure was adopted by congress in 1816?

§ 9. What has since been the policy of our government? and what is the present condition of the agricultural, manufacturing, and commercial interests of the country?

§ 10. Do you suppose the general prosperity of the country has been advanced by these measures of the government?

§ 11. Why was it necessary that congress should also have the power to regulate trade between the states?

§ 12, 13. What are the nature and necessity of navigation laws? Who superintends the collection of duties?

§ 14. What different kinds of duties are laid on goods? Define specific, ad valorem, and tonnage duties.

§ 15. About what amount is annually received from customs? From what other source is our national revenue derived?

CHAPTER LI.

Powers of Congress, Continued.

§ 1. ANOTHER power given to congress, is the power "*to establish a uniform rule of naturalization.*" It has already been stated, that foreigners, or aliens, are not entitled to the privileges of citizens till they become naturalized. Before the constitution was adopted, every state established its own rules for naturalizing foreigners. But as a person, on being made a citizen in any state, becomes a citizen of the United States, it is evident that there should be but one rule of naturalization.

§ 2. An alien must have lived in the United States five years before he can become a citizen. Two years before

he is admitted as a citizen, he must declare, on oath, in writing, before a proper court, that he intends to become a citizen of the United States, and to renounce his allegiance to his former government; and he must declare, on oath, that he will support the constitution of the United States. Then, two years thereafter, the court, if satisfied as to his moral character and his attachment to the constitution, may admit him as a citizen.

§ 3. On his being naturalized, a man's minor children, if dwelling in the United States, also become citizens. If a man has lived at least three years in the United States before he becomes of age, he may, at the expiration of the five years' residence, be admitted by the court, without having previously made a declaration of his intention to become a citizen.

§ 4. The power "*to coin money and regulate the value thereof,*" is properly given to congress. Formerly the system of reckoning was by pounds, shillings, and pence; the value of which was different in different states. For instance, in the New-England states, six shillings made a dollar, in New-York eight, in Pennsylvania seven shillings and sixpence. This rendered dealing between the people of different states highly inconvenient. The present decimal mode of calculation, by dollars and cents, established by congress, together with the use of decimal coins, has removed the former inconvenience.

§ 5. Money is coined at the *mint*, which is in Philadelphia. The business of coining is under the superintendence of a director. The principal persons employed under him are a treasurer, an assayer, a chief coiner, an engraver, and a melter and refiner. The gold and silver before it is coined, is called *bullion*. Individuals, as well as the government, may get money coined at the mint. Gold and silver are also coined at New-Orleans; and gold, to some extent, is coined at some place in North-Carolina, and at another in Georgia.

§ 6. Another power of congress is "*to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.*" Useful arts and sciences are much

aided by new inventions or discoveries, and by new books. But if every man had the privilege of printing and selling every book or writing, there would be little encouragement to men of ability to spend, as is often done, years of labor in preparing new works for the public. Nor would men of genius be likely to spend their time and money in inventing and constructing expensive machinery, if others had the same right as the inventors to make and sell the same.

§ 7. Congress has therefore enacted laws for the benefit of authors and inventors. The exclusive right of an author to the benefits of the printing and sale of his books or writings, is called *copy-right*, and is obtained thus: The author sends a printed copy of the title of his book to the clerk of the district court of the United States of the district in which the author resides. The clerk records the title in a book, for which he receives fifty cents, and gives the author, under the seal of the court, a copy of the record, for which also he receives fifty cents.

§ 8. The author must also, within three months after the publication of the work, deliver a copy of the same to the clerk of the district court. And he must cause to be printed on the title page or page immediately following, of every copy of the book, words showing that the law has been complied with. (See the 2d page of this book.) This secures to the author the sole right to print and sell his work for twenty-eight years; at the expiration of which time, he may have his right continued for fourteen years longer, by again complying with the requirements of the law as before, provided it be done within six months before the expiration of the first term, and a copy of the record published in a newspaper for the space of four weeks.

§ 9. If an author disposes of his interest in his work before a copy-right is secured, the person becoming the proprietor of the work procures the copy-right in his own name. A proprietor or owner of a copy-right may at any time sell and assign his right to another person; in which case the assignment is to be recorded in the office whence the right was issued.

§ 10. *Patents* for new inventions are obtained at the patent office at the seat of government, which office is con-

nected with the department of state. The commissioner of patents superintends the granting of patents, under the direction of the secretary of state. To secure an exclusive right to an invention, the inventor must deliver to the commissioner of patents a written description of his invention, and specify the improvement which he claims as his own discovery; and he must swear that he believes he is the true discoverer thereof.

§ 11. Before the petition of an inventor is considered, he must pay the sum of thirty dollars. If the commissioner, upon examination, does not find that the invention had been before discovered, he issues a patent therefor. Patents are granted for the term of fourteen years, and may be renewed for a farther term of seven years, if the inventor has not been able to obtain a reasonable profit from his invention.

§ 12. The power "*to declare war,*" and the powers relating to the public defence, are all properly given to congress. It would be dangerous to allow a single state to make war; and to depend on the state governments to provide the means of prosecuting a war, had already been found to be unsafe. And as the people of all the states become involved in the calamity and expense of a war, the power to declare war ought to belong to the representatives of the nation.

§ 13. Congress has also the power "*to issue letters of marque and reprisal. Marque* means passing the frontier or limits of a country; reprisal, taking in return. Letters of marque and reprisal give to persons injured by citizens of another nation, the liberty to seize the bodies or goods of any of the citizens of such nation, and detain them until satisfaction shall be made. It is not clear that such license ought ever to be given. Although it is designed to enable citizens of one country to obtain redress for injuries committed by those of another, without a resort to war, its tendency is to provoke rather than prevent war. Besides, it does not appear just to seize and detain the bodies or goods of unoffending persons. If the power to grant such license is ever to be exercised, it is properly vested in congress.

§ 14. Congress has power "*to exercise exclusive legislation over such district* (not exceeding ten miles square) *as may, by cession of particular states, become the seat of government.*"

The "ten miles square," as appears from the language of the clause, was not yet in possession of the national government: but it was in contemplation, by the states of Maryland and Virginia, to cede it to the United States for the purpose mentioned. As it is the property of the nation, it is proper that congress alone should be allowed to make laws for the people therein. The district is called the District of Columbia. That part of it which was ceded by Virginia to the United States, was in 1846 retroceded by congress to that state.

EXERCISES.

§ 1. Why was the power to establish a rule of naturalization given to congress?

§ 2. How soon may an alien become a citizen? What is required by the rule of naturalization?

§ 3. How do the children of aliens become citizens? In what case is the previous declaration of intention to become a citizen unnecessary?

§ 4. Why was the power to coin money and regulate its value given to congress? How has the inconvenience been removed?

§ 5. Where is money coined? What persons are employed in the mint? What is bullion?

§ 6. What is the object of the power to promote the progress of science and the arts?

§ 7, 8. What is a copy-right? How is this right secured? For how many years is the right secured? How, and for what term, may it be renewed?

§ 9. If the author is not the proprietor of a work, who obtains the copy-right? How may copy-rights be transferred?

§ 10, 11. Where is the patent office? What requirements must be complied with to procure a patent? For what term are patents granted? In what case, and for what term, may they be renewed?

§ 12. Why is power to declare war and provide for prosecuting it given to congress?

§ 13. Define the words marque and reprisal. What is

granted by letters of marque and reprisal? What objections are there to granting such license?

§ 14. By what authority are the laws made for the people of the District of Columbia? Over what other places has congress such authority? (See the whole clause in the constitution.)

CHAPTER LII.

Powers prohibited to Congress and the States.

§ 1. WHILE the constitution gives many necessary and important powers to congress, there are certain powers which it expressly declares shall not be exercised either by congress or the states. (See Art. 1, § 9, 10.)

§ 2. "*No bill of attainder or* ex post facto *law shall be passed.* A *bill of attainder* is an act of a legislature, inflicting the punishment of death upon a person pronounced guilty of some crime, without trial. If it inflicts a milder punishment, it is called a bill of pains and penalties.

§ 3. An *ex post facto law* is, literally, a law which has effect upon an act after it is done. It here means a law to punish, as a *crime*, an act that was lawful when it was done. Thus, if a law should be passed, by which a man should suffer death for an act of justifiable homicide committed before the law was made, such would be an *ex post facto* law. A law is also an ex post facto law that inflicts a more severe penalty for an *unlawful* act, than was imposed for such offence when committed. Thus, if a law were passed to-day, requiring that men awaiting trial for petit larceny heretofore committed, should, on conviction, suffer death, or imprisonment in state prison, such law would be an ex post facto law.

§ 4. "*No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.*" (Cons. Art. 1, § 9.) The word *capitation* is derived from the same Latin word as *capital*, which has been defined. It is a tax of so much upon every head,

or poll, without respect to property; hence it is usually called a *poll-tax*. The above clause means, that if poll-taxes, which are a kind of direct taxes, should be laid in pursuance of the 3d clause, 2d section, and 1st article of the constitution, only three-fifths of the slaves are to be counted. Poll-taxes are not laid to any great extent, in any of the states. In some, perhaps most of them, a part of the highway labor is thus assessed, and is the only poll-tax laid.

§ 5. "*No attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.*" (Cons. Art. 3, § 3, cl. 2.) To the young reader this sentence may need explanation. Literally, attainder means a taint, or staining, or corruption; but it here signifies the same as judgment, or conviction. By the common law, the stain of treason was made to affect the *blood* of the traitor, so that he could neither inherit property himself, nor could his heirs inherit from him; but his whole estate was forfeited. The constitution properly abolishes a law by which the innocent were made to suffer for the crimes of others.

§ 6. Besides corruption of blood and forfeiture, the manner of inflicting the punishment was most disgraceful and inhuman. The offender was drawn to the gallows on a hurdle; hanged by the neck, and cut down alive; his entrails taken out and burned while he was yet alive; his head cut off; and his body quartered. Power being given to congress, in the clause above referred to, "*to declare the punishment of treason,*" congress has abolished this barbarous practice. Hanging, simply, is the punishment.

§ 7. The states also, are properly prohibited from doing certain acts. (See Art. 1, § 10.) One of the things there forbidden is, to "*make any thing but gold and silver coin a tender in payment of debts.*" This means that no person shall be compelled to take in payment of a debt any thing *tendered* or offered to him but gold and silver coin.

§ 8. Both during and after the war, a large amount of paper money, almost worthless, was put in circulation; and by some of the states, this money was declared to be a tender. Hence the propriety of this prohibition. But the

constitution goes farther, and says, (in the same clause,) that no state shall "*emit bills of credit;*" that is, issue paper money on the credit of the state. Bank bills, it will be remembered, are not issued by the state, but by banking companies.

§ 9. The states are forbidden also to pass any "*law impairing the obligation of contracts.*" Laws that would weaken the force of a contract, or release men from their obligations, would be contrary to the principles of justice, and give insecurity to the rights of property; and they are therefore with great propriety prohibited. In the list of prohibited powers are several others, but a particular notice of them is deemed unimportant.

§ 10. Among these powers, however, is one which was placed there from a supposed necessity rather than from a conviction of its propriety. It is the first in the list, (section 9,) and may need some explanation. It relates to the foreign slave trade, which was extensively carried on at that time. "*The importation of such persons as any of the states now existing shall think proper to admit,*" means the bringing of slaves into this country from Africa by permission of the states. This was "*not to be prohibited by congress prior to the year* 1808;" thus permitting the trade for nearly twenty years certain, and leaving it to congress to prohibit it at the expiration of that time, or suffer it to continue.

§ 11. Some of the states, whose citizens were engaged in the slave trade, were unwilling to relinquish the business. Had a provision been inserted in the constitution immediately prohibiting this trade, a number of the states would have refused to adopt it. As will be seen by the last article, it was not to go into effect until ratified by nine states; and as it could be binding only upon those states by whose conventions it should be ratified, it was deemed inexpedient to form a union composed of less than that number. In order, therefore, to secure the ratification of the constitution by the requisite number of states, many of the delegates who were in favor of prohibiting the slave trade, consented to a provision which would give congress the power to abolish it at the time specified.

§ 12. In pursuance of this provision, congress exercised

its power for the abolition of this cruel and inhuman traffic at the earliest possible period. A law was passed in 1807, to go into effect in 1808, making it unlawful, under severe penalties, to import slaves into the United States; and in 1820, the African slave trade was, by an act of congress, declared *piracy*, and punishable by death.

EXERCISES.

§ 1. In what part of the constitution is the list of prohibited powers?

§ 2. What is a bill of attainder?

§ 3. What is an ex post facto law? Give an example of an ex post facto law.

§ 4. What are poll-taxes? How are they to be laid in the slave states?

§ 5. What is attainder of treason? Corruption of blood? What is the object of this clause?

§ 6. How was punishment for treason inflicted under the common law? By whom is the punishment of treason declared?

§ 7. Coin only can be made a tender for debts. What does this mean?

§ 8. What induced the insertion of this provision concerning tender? What are bills of credit?

§ 9. Why ought laws impairing or annulling contracts to be prohibited?

§ 10. To what do the words "importation of persons" in the first prohibition relate?

§ 11. Why was a provision permitting this inhuman traffic suffered to be placed in the constitution?

§ 12. How and when has congress exercised its power to stop this trade?

CHAPTER LIII.

Powers of the President; Treaties; Foreign Ministers; Appointment of Officers, &c.

§ 1. An essential power of the general government is the power "*to make treaties.*" This power is exercised by the *president*, "*by and with the advice and consent of the senate.*" A *treaty* is an agreement between two nations. Treaties are made to restore or preserve peace, and sometimes to regulate trade, between nations. It is plain, therefore, that this power ought to be in the national government; and for wise reasons it is given to the president and senate alone. And for similar reasons, the power to "*appoint embassadors, ministers,*" or other agents by whom treaties are negotiated, should be in the same hands. (See Cons. Art. 2, § 2.)

§ 2. In making a treaty, the terms are arranged and agreed upon by the agents of the two governments; and the articles of agreement are sent to their respective governments to be ratified. Both governments must ratify, or the treaty fails. What is meant by the president and senate's making treaties, is their approving and sanctioning, or, as it is usually called, *ratifying* them. Treaties are sometimes negotiated by persons appointed by the two governments for that special purpose; at other times they are made by the permanent representatives or ministers of the respective governments.

§ 3. Each civilized nation has some officer at home, and a representative at the seat of each foreign government, to transact business for his nation, and to keep his government advised of what is done abroad. Hence there are at the city of Washington a minister from Great Britain, one from France, one from Russia, and one from each of the other principal governments of Europe and America. And our government has a minister residing at the seat of government of each of those countries. The officer of our government who corresponds with foreign ministers, and with our ministers abroad, is the secretary of state.

§ 4. Representatives at foreign courts are differently styled, embassadors, envoys, ministers, and charges des affaires, commonly written charges d'affaires. An embassador who is intrusted with the ordinary business of a minister at a foreign court, is called an *embassador in ordinary*. An *embassador extraordinary* is a person sent on a particular occasion, who returns as soon as the business on which he was sent is done. He is sometimes called *envoy;* and when he has full power to act as he may deem expedient, he is called *envoy plenipotentiary*, the latter word signifying full power. The other resides abroad, and acts in obedience to instructions sent him from time to time.

§ 5. Agents sent by the United States to reside at foreign courts, are usually called ministers, especially those sent to the principal or more important countries. *Charges d'affaires* are ministers of a lower grade, and are sent to inferior countries, or those with whom we have less important relations. The name is French, and is pronounced *shar-zha-daf-fair*, accented on the first and last syllables. It means a person having charge of the affairs of his nation.

§ 6. *Consuls* reside in foreign sea-ports. Their business is to aid their respective governments in their commercial transactions with such foreign countries, and to protect the rights, commerce, merchants, and seamen of their own nation. Hence much of their business is with masters of vessels and with merchants. They also dispose of the personal estate left by citizens of the United States who die within their consulates, leaving no representative or partner in trade to take care of their effects.

§ 7. Ministers of the United States receive a salary of $9,000 a year; charges d'affaires, $4,500; and both receive, besides, on going out of the United States, an *outfit*, equal to a year's salary. Some consuls receive salaries, others depend on fees of office. A *salary* is a fixed sum paid to a person for his services by the year; a *fee* is the sum paid or received for each separate act of service; as lawyer's fees; clerk's fees; sheriff's fees, &c.

§ 8. Not only does the president appoint embassadors, other public ministers and consuls, but he has power also, by and with the advice and consent of the senate, to *appoint*

judges of the supreme court, the *head officers of the several executive departments,* and a great number and variety of other officers. The power to appoint these officers is with propriety given to the president. The election of judges of the supreme court of the United States by the people, would be not only inconvenient but injudicious. And as a president is in a measure responsible for the acts of his subordinates in the several executive departments, and as without their co-operation and advice he could scarcely carry out his own measures; the appointment is properly given to the executive; and, by being required to submit his choice to the body of senators, a sufficient safeguard is provided against the appointment of bad men.

§ 9. Numerous other powers and duties devolve upon the president, many of which are similar to those of the governor of a state. Such are the following: (See Art. 2, § 2, 3.) He is "*commander-in-chief of the army and navy of the United States,*" as a governor is of the army and navy of a state. He has the power "*to grant reprieves and pardons* for offences against the United States." He is required from time to time, to give to congress (by message) "information of the state of the union, and recommend measures to their consideration; and to see that the laws be faithfully executed."

EXERCISES.

§ 1. By whom are treaties made? What is a treaty?

§ 2. Describe the usual manner of making a treaty.

§ 3. How, or by whom, is the business intercourse of nations with each other conducted?

§ 4. What are the several different foreign representatives called? In what respects do their duties differ?

§ 5. What is the difference between a minister and a charge d'affaires?

§ 6. What is the business of a consul?

§ 7. What is the compensation of these three officers, respectively?

§ 8. What other high officers does the president appoint?

§ 9. Mention some other powers of the president.

CHAPTER LIV.

Miscellaneous Provisions.

§ 1. "*The citizens of each state shall be entitled to all the immunities and privileges of citizens in the several states.*" (Art. 4, § 2.) This means that the citizens of any state going into other states, shall not, by the laws of those states, be deprived of any of the privileges of citizens; or that no state shall pass laws bestowing upon its own native citizens political privileges which might not be enjoyed by natives of other states coming into such state.

§ 2. In the same section it is provided, that a "*person held to service or labor in one state,* (meaning a slave,) *escaping into another,*" shall not become free by any law of the state into which he flees, "*but shall be delivered up on claim of the party to whom such service or labor may be due,*" meaning his master. Before the constitution was adopted with this provision, a slave escaping into a non-slaveholding state became free, and could not be reclaimed. The owner of a runaway slave finding him in one of the free states, arrests him and brings him before a magistrate; and if he proves his title to the slave to the satisfaction of the magistrate, the slave is delivered up to the owner. But as no laws have been enacted in the free states requiring any person to aid in the recovery of slaves, the opinion is entertained that no magistrate has authority to act in the matter, or at least is not bound to do so. Hence many refuse when applied to, which renders the retaking of slaves difficult, often impossible.

§ 3. The 3d section of the 4th article gives to congress the power to *admit new states into the union.* This provision was deemed necessary in view of the large extent of national territory possessed by the United States. In pursuance of the power here granted, a number of states formed from new territory, nearly equal to the number then existing, has been admitted. Four states, Vermont, Kentucky, Tennessee, and Maine, have been formed from other states.

To the vast extent of territory belonging to the United States, a large acquisition has recently been made: all of which, sufficient for an indefinite number of new states, seems destined, at some future day, to be formed into states and admitted into the union.

§ 4. The 5th article prescribes the mode of amending the constitution. (See the article.) It will be seen that by this mode, amendments are effected with great difficulty. The consent of two-thirds of congress, or of two-thirds of the state legislatures, even to a proposition for any amendment, will seldom be obtained. And then to get a proposed amendment ratified by either the legislatures of three-fourths of the states, or by conventions in three-fourths of them, would seem to be still more difficult. If a more easy mode had been provided, alterations might have been too frequently made, sometimes, perhaps, for the worse.

§ 5. The change of the mode of electing president and vice-president, is the only alteration that has been made of any of its provisions. That change was effected by the 12th article of amendments. All the preceding articles called amendments, are *additions* rather than amendments, being intended as a declaration or *positive guaranty* of rights which many supposed were already sufficiently secure, and needed no constitutional enactment to make them so; but which guaranty or declaration was desired by others, to place the security of these rights beyond all question or uncertainty.

§ 6. The 1st clause of the 6th article, is an acknowledgment of the obligation of the government to pay "*all debts contracted before the adoption of the constitution.*" As has been observed, congress had borrowed large sums of money, for the payment of which it had not the power to provide; and one object to be attained by a change of government was to make provision for fulfilling the engagements of the nation. This clause, it is said, was also intended to allay the fears of public creditors who apprehended that a change in the government would release the nation from its obligations.

§ 7. By the 2d clause of the 6th article, the constitution and the laws and treaties made under it, are declared to be binding above all state constitutions and laws. If it were

not so—if all state authorities were not bound by the constitution of the United States, nothing would have been gained by the Union. If the laws made by congress were not to be the supreme law, why give congress the power to make them? Or if treaties could be nullified by any power in a state, why was power to make them given to the general government? Hence the judges of every state are bound by the laws and treaties of the United States, whatever may be found in the laws or constitution of any state to the contrary.

§ 8. By the last article, the constitution, whenever ratified by the conventions of nine states, was to be established between the states so ratifying it. The framers closed their labors in September, 1787; and in July, 1788, New Hampshire, the ninth state, sent its ratification to congress. Congress appointed the first Wednesday of January, 1789, for choosing electors of president in the several states, and the first Wednesday of February for the electors to meet in their respective states to elect the president. Gen. Washington was unanimously chosen, and on the 30th of April was inaugurated president. Proceedings, however, commenced under the constitution on the 4th of March, preceding.

§ 9. In the foregoing sketch of the government of the United States, many provisions of the constitution have been passed over without remark. Neither the objects nor the intended limits of this work, would admit of an extended commentary. To the student who shall have become familiar with this elementary treatise, and who shall desire to pursue the study, with the view of acquiring a thorough knowledge of our constitutional jurisprudence, the author would recommend the perusal of Story's abridged Commentary on the Constitution.

EXERCISES.

§ 1. What does the 1st clause of section 2, article 4 of the constitution provide? What does it mean?

§ 2. What is meant by "a person held to service or labor" in the 3d clause? How are runaway slaves reclaimed?

§ 3. Why was the power to admit new states given to congress? What has been done under this power?

§ 4. What does the 5th article prescribe? How are amendments to be made to the constitution?

§ 5. How many articles of amendment are added to the constitution? How many of them are alterations of any original provisions?

§ 6. What is the 1st clause of the 6th article? Why was this clause inserted?

§ 7. Can you give any reason why the laws and treaties made under the constitution of the United States, should control the laws and courts of the states?

§ 8. How many states must ratify the constitution in order to its establishment? Did all the states ratify it before it went into effect?

CHAPTER LV.

Review and Conclusion.

§ 1. From the view which has been given of the state and national governments, it must be seen how well they are adapted to promote the general welfare of the people, and to secure to them the blessings of liberty. Let us, by way of review, again advert to some of the leading features of our political system.

§ 2. One of the excellencies of this system is the extent to which political rights and privileges are enjoyed. In the ancient democracies of Greece, where every freeman was a member of the legislature, political rights were enjoyed and exercised only by about one twentieth part of the male citizens of full age. In England, where one branch of the legislature is elective, a large portion of the people has no right to vote for representatives.

§ 3. But in most of the states of this union, nearly all white male citizens enjoy the rights of freemen. They have a voice in choosing their constitution, and in electing the

offieers of the government. This is the fundamental principle of republicanism, the highest privilege of freemen.

§ 4. Another excellency of our government, one that gives security to liberty, is the division of the civil power into legislative, executive, and judicial. If the persons who make the laws should also have power to execute them and to judge of and apply them, the government, whatever it might be called, would be little better than a despotism. The rights and liberties of the people are safe only where these several powers are separated.

§ 5. Additional security is given to liberty by the peculiar nature of the union. This has been described. It differs from the unions that have heretofore existed. Those were simple confederacies or leagues between sovereign states. The old American confederation was of that kind. By a *sovereign* state, we mean a state that makes all its own laws, and is controlled by no superior power.

§ 6. The Swiss cantons are at present united in such a confederacy. They are sovereign states; and, as in all mere confederations, each canton has an equal vote in the congress. The principal German states are similarly united; some of which are republican, others monarchical.

§ 7. But the states of the American union are not wholly sovereign. They have, for the good of the whole, given up a portion of their sovereignty to the general government, which in certain cases controls the state governments. If the states were entirely sovereign, they could establish any kind of government. But by the constitution, the general government has power, and is bound to prevent any state from changing its government to any other than a republican form. (Art. 4, § 4.)

§ 8. In the course of this work, the government of the United States has frequently been called the *national* government; but it is not wholly national. To have an idea of a government purely national, we must suppose the people united in one great government, with only one legislature to make laws for the whole nation, one executive, and one judiciary. And in adopting a constitution, all the electors must vote directly for or against the proposed form, and a

majority of all the votes must be necessary for its adoption, as when choosing a state constitution.

§ 9. But it must be kept in mind that the state governments existed first, and that the conduct of the citizens is regulated by the laws of the states. Although the general government also, in some cases, acts directly upon individual citizens, and is superior to the state governments; yet its powers extend only to certain objects, which powers are given to it by the people of the states: consequently all powers which the constitution does not grant to the general government, remain with the states and the people. (Cons. Art. 10, of Amendments.)

§ 10. The government is therefore of a *mixed* nature, being partly national and partly federal. *Federal* signifies united by a league or confederation, and implies that the members have equal power. Such was the character of the old confederation; and some of its principles have been retained in the constitution.

§ 11. Under the former, all the states were equally represented in the congress, the members of which were chosen by the state legislatures. In the senate, the states are equally represented now; and the senators are also appointed by the state legislatures. Also, in the adoption of the constitution the states had an equal voice; and so they must have in amending it. In these cases the *federal* principle is preserved.

§ 12. But the house of representatives, in which each state is represented in proportion to its population, is constituted upon the *national* principle. The election of president by presidential electors proportionally distributed among the states, is also upon the *national* principle. But if the election is to be made by the house of representatives, each state has an equal vote: this is according to the *federal* principle.

§ 13. It may perhaps be asked, Why are so many governments necessary? Why not dispense with the state governments, and let the people of the whole nation be united in one great national government, like that of a state? Such a plan would be impracticable. A single government could not make all the laws necessary for so great a nation, nor manage its numerous affairs. Hence, the interests of

large portions and of different classes of the people must be neglected. Complaints and grievances would be presented to the government from every quarter, which it could not satisfy or redress; and disorder and anarchy would soon prevail throughout the republic.

§ 14. Hence the interests and liberties of the people are most effectually secured by the division of the national territory into portions of convenient size, each having a government of its own; and by uniting them under one general government, which shall have power to control these several governments in all needful cases, and to keep each of them within its own proper sphere.

§ 15. How highly favored the people who live under such a government as that which has been described! How dear should be the memory of those who achieved the independence of these states, and established the system of government which has conveyed to us, their descendants, the blessings of civil and religious freedom! And what a debt of gratitude is due to the Supreme Ruler of Nations, under whose protection and care a feeble, dependent, and depressed people has risen, amidst difficulties and dangers, to a state of unexampled prosperity and happiness!

§ 16. With our patriot fathers, the great object was liberty and independence. With us the question should be, How shall our liberties be preserved? Whether the American people shall long continue to enjoy the blessings which their admirable constitution is so well adapted to secure, is to be determined by the future character and conduct of the people themselves.

§ 17. A nation, to be prosperous and happy, must be *virtuous*. A community may live under a free constitution, and suffer the evils of a despotism. The people may be their own oppressors. Bad laws are no less oppressive under a republican form of government than under any other. Where there is not virtue in the body politic, bad men will be elected to office, and bad laws will be made.

§ 18. On the other hand, freedom may be enjoyed in a monarchy. A wise and virtuous king will make good and wholesome laws; and his subjects may as really enjoy civil and religious liberty, as the citizens of a republic. Freedom

exists wherever the laws are good, and where they are properly administered and duly respected.

§ 19. The people must also be *intelligent.* In general, the freedom and happiness of a nation are in proportion to its intelligence. If people are ignorant, they cannot govern themselves. Indeed, they know not what their rights are. Besides, if they are not well informed, they are liable to be deceived by intriguing politicians, who seek power only to use it for selfish purposes.

§ 20. Hence the necessity of *vigilance* also. As men in office are prone to abuse their power, they should be closely watched. They should be made to know that they are regarded as but servants of the people, and that they will be held to a strict accountability; and the people must pass impartial judgment upon their conduct, and not suffer party prejudice to blind them to the misconduct of their greatest favorites.

§ 21. If, then, we would continue a free and happy people, we must be intelligent, virtuous, and vigilant. Our liberties *may* be preserved; and they WILL be preserved, while the general diffusion of useful knowledge shall continue to be liberally encouraged, and the conduct of our citizens, in their social and civil relations, shall be governed by religious principle, and the sentiments of genuine, enlightened patriotism.

CONSTITUTION OF THE UNITED STATES.

The Constitution framed for the United States of America, by a convention of deputies from the States of New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, at a session begun May 25, and ended September 17, 1787.

We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

Section 1. All legislative power herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

Sec. 2. The house of representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of the state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within the Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons,

including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose *three*, Massachusetts *eight*; Rhode Island and Providence Plantations *one*; Connecticut *five*; New York *six*; New Jersey *four*; Pennsylvania *eight*; Delaware *one*; Maryland *six*; Virginia *ten*; North Carolina *five*; South Carolina *five*; Georgia *three*.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SEC. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall have assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one-third may be chosen every second year; and if vacancies happen, by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments, until the next meeting of the legislature which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote unless they be equally divided.

The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments; when sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment, in cases of impeachment, shall not extend further than removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SEC. 5. Each house shall be judge of the elections, returns and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays

of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same: and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SEC. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose, or concur with, amendments, as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States: if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of that house, it shall become a law. But, in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the pre-

sident within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return, in which case it shall not be a law.

Every order, resolution or vote, to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States, and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be passed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. Congress shall have power—

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

To coin money; to regulate the value thereof, and of foreign coin; and fix the standard of weights and measures:

To provide for the punishment of counterfeiting the securities and current coin of the United States:

To establish post offices and post roads:

To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

To constitute tribunals inferior to the supreme court:

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

To declare war; grant letters of marque and reprisal; and make rules concerning captures on land and water:

To raise and support armies: but no appropriation of money to that use shall be for a longer term than two years:

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the states respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress.

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings: And,

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SEC. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight: but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law: and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

Sec. 10. No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the nett produce of all duties and imposts laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

Section 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or repre-

sentative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then, from the five highest on the list, the said house shall, in like manner, choose the president. But, in choosing the president, the votes shall be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors, shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice president.

(By the 12th article of amendment, the above clause has been repealed.)

The congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president: neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president; and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States; and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

SEC. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur: and he shall nominate, and by and with the advice and consent of the senate, shall appoint embassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the congress may, by law, vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

Sec. 3. He shall from time to time, give to the congress information of the state of the Union; and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them; and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive embassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

Sec. 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

Section 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Sec. 2. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting embassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party, to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states,

and between a state, or the citizens thereof and foreign states, citizens or subjects.

In all cases affecting embassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial thall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SEC. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION 1. Full faith and credit shall be given, in each state, to the public acts, records, and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of

any law or regulation therein be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SEC. 4. The United States shall guaranty to every state in this union, a republican form of government; and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments; which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress: Provided, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted, and engagements entered into, be-

fore the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states shall be bound, by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qual fication to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America, the twelfth. In witness whereof we have subscribed our names.

GEORGE WASHINGTON,
President, and Delegate from Virginia.

New Hampshire. John Langdon, Nicholas Gilman.
Massachusetts. Nathaniel Gorham, Rufus King.
Connecticut. Wm. Samuel Johnson, Roger Sherman.
New York. Alexander Hamilton.

New Jersey. William Livingston, William Paterson, David Brearly, Jonathan Dayton.

Pennsylvania. Benjamin Franklin, Robert Morris, Thomas Fitzsimons, James Wilson, Thomas Mifflin, George Clymer, Jared Ingersoll, Gouverneur Morris.

Delaware. George Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jacob Broom.

Maryland. James M'Henry, Daniel of St. Tho. Jenifer, Daniel Carroll.

Virginia. John Blair, James Madison, Jr.

North Carolina. William Blount, Richard Dobbs Spaight, Hugh Williamson.

South Carolina. John Rutledge, Charles Pinckney, Pierce Butler, Chas. Cotesworth Pinckney.

Georgia. William Few, Abraham Baldwin.

Attest, WILLIAM JACKSON, *Secretary.*

AMENDMENTS.

ARTICLE I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ART. II. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ART. III. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ART. IV. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or

affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ART. V. No person shall be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger; nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ART. VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

ART. VII. In suits at law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ART. VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ART. IX. The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

ART. X. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ART. XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ART. XII. The electors shall meet in their respective states, and vote, by ballot, for president and vice president, one of whom, at least, shall not be an inhabitant of the same state with themselves: they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the president of the senate: the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice president, shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the senate shall choose the vice president: a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

DECLARATION OF INDEPENDENCE.

In Congress, July 4, 1776.

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA.

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal, that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such govern-

ment, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation, till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them. He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large, for their exercise, the state remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the condition of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the

tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers, to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws, giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation and

tyranny, already begun with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections among us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connexions and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind —enemies in war, in peace, friends.

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world, for the rectitude of our intentions, do, in the name and by the authority, of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as free and independent

states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent states may of right do. And for the support of the declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

JOHN HANCOCK,
President of Congress, and
Delegate from Massachusetts.

New Hampshire. Josiah Bartlett, William Whipple, Matthew Thornton.

Massachusetts Bay. Samuel Adams, John Adams, Robert Treat Paine, Elbridge Gerry.

Rhode Island, &c. Stephen Hopkins, William Ellery.

Connecticut. Roger Sherman, Samuel Huntington, William Williams, Oliver Wolcott.

New York. William Floyd, Philip Livingston, Francis Lewis, Lewis Morris.

New Jersey. Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark.

Pennsylvania. Robert Morris, Benjamin Rush, Benjamin Franklin, John Morton, George Clymer, James Smith, George Taylor, James Wilson, George Ross.

Delaware. Cæsar Rodney, George Read, Thomas M'Kean.

Maryland. Samuel Chase, William Paca, Thomas Stone, Charles Carroll, of Carrollton.

Virginia. George Wythe, Richard Henry Lee, Thomas Jefferson, Benjamin Harrison, Thomas Nelson, Jr., Francis Lightfoot Lee, Carter Braxton.

North Carolina. William Hooper, Joseph Hewes, John Penn.

South Carolina. Edward Rutledge, Thomas Heyward, Jr., Arthur Middleton.

Georgia. Button Gwinett, Lyman Hall, George Walton.

Attest, CHARLES THOMPSON, *Secretary.*

WASHINGTON'S FAREWELL ADDRESS.

SEPTEMBER 17, 1796.

Friends and Fellow-Citizens:

The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprize you of the resolution I have formed, to decline being considered among the number of those out of whom the choice is to be made.

I beg you at the same time to do me the justice to be assured, that this resolution has not been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that in withdrawing the tender of service, which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest; no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of and continuance hitherto in the office to which your suffrages have twice called me, have been an uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had

been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea. I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove of my determination to retire.

The impressions with which I first undertook the arduous trust, were explained on the proper occasion. In the discharge of this trust I will only say that I have, with good intentions, contributed towards the organization and administration of the government the best exertions of which a very fallible judgment was capable. Not unconscious, in the outset, of the inferiority of my qualifications, experience in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe, that while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as instructive example in our annals, that under circumstances in which the passions, agita-

ted in every direction, were liable to mislead—amidst appearances sometimes dubious—vicissitudes of fortunes often discouraging—in situations in which not unfrequently want of success has countenanced the spirit of criticism—the constancy of your support was the essential prop of the efforts, and a guarantee of the plans, by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave, as a strong incitement to unceasing wishes, that Heaven may continue to you the choicest tokens of its beneficence—that your union and brotherly affection may be perpetual—that the free constitution which is the work of your hands may be sacredly maintained—that its administration in every department may be stamped with wisdom and virtue—that, in fine, the happiness of the people of these States, under the auspices of liberty, may be made complete, by so careful a preservation, and so prudent a use of this blessing, as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me, on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments, which are the result of much reflection, of no inconsiderable observation, and which appear to me all-important to the permanency of your felicity as a people. These will be offered to you with the more freedom, as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of our hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government, which constitutes you one people, is also now dear to you. It is justly so; for it is a main pillar in the edifice of your real independence; the support of your tranquility at home; your peace abroad;

of your safety; of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee, that from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed; it is of infinite moment, that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and to speak of it as a palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice, of a common country, that country has a right to concentrate your affections. The name of AMERICAN, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations. With slight shades of difference you have the same religion, manners, habits and political principle. You have, in a common cause, fought and triumphed together; the independence and liberty you possess, are the work of joint councils, and joint efforts—of common dangers, sufferings, and success.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

The *north*, in an unrestrained intercourse with the *south*, protected by the equal laws of a common government, finds

in the productions of the latter, great additional resources of maritime and commercial enterprize, and precious materials of manufacturing industry. The *south*, in the same intercourse, benefitting by the same agency of the *north*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *north*, it finds its particular navigation invigorated—and while it contributes in different ways to nourish and increase the general mass of the national navigation, it looks forward to the protection of a maritime strength, to which itself is unequally adapted. The *east*, in like intercourse with the *west*, already finds in the progressive improvement of interior communications by land and water, and will more and more find a valuable vent for the commodities which it brings from abroad, or manufactures at home. The *west* derives from the *east* supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions, to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation. Any other tenure by which the *west* can hold this essential advantage, whether derived from its own separate strength, or from an apostate and unnatural connexion with any foreign power, must be intrinsically precarious.

While therefore every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts, greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and what is of inestimable value, they must derive from union an exemption from those broils and wars between themselves, which so frequently afflict neighboring countries, not tied together by the same government, which their own rivalships alone would be sufficient to produce; but which opposite foreign alliances, attachments, and intrigues, would stimulate and embitter. Hence, likewise, they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which

are to be regarded as particularly hostile to republican liberty. In this sense it is, that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue of the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken its band

In contemplating the causes which may disturb our union, it occurs as matter of serious concern that any ground should have been furnished for characterizing parties, by geographical discriminations—*Northern* and *Southern*; *Atlantic* and *Western*; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart-burnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head. They have seen in the negotiation, by the executive, and in the unanimous ratification by the senate of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government, and in the Atlantic states, unfriendly to their in-

terests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain, and that with Spain, which secure to them every thing they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute; they must inevitably experience the infractions and interruptions which alliances at all times have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a constitution of government, better calculated than your former for an intimate union, and for the efficacious management of your common concern. This government, the offspring of your own choice, uninfluenced and unawed; adopted upon full investigation and mature deliberation; completely free in its principles; in the distribution of its powers uniting security with energy, and containing within itself provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political system is the right of the people to make and to alter their constitutions of government. But the constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government, presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberations and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency. They serve to organize faction; to give it an

artificial and extraordinary force; to put in the place of the delegated will of the nation, the will of party, often a small, but artful and enterprizing minority of the community; and according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans, digested by common councils, and modified by mutual interests.

However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite not only that you steadily discountenance irregular opposition to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to affect in the forms of the constitution alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments, as of other human institutions; that experience is the surest standard by which to test the real tendency of the existing constitutions of a country; that facility in changes upon the credit of mere hypothesis and opinion, exposes to perpetual change, from the endless variety of hypothesis and opinion; and remember especially, that from the efficient management of your common interests, in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty, is indispensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name, where the government is too feeble to withstand the enterprizes of faction, to confine each mem-

ber of society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the dangers of parties in the state, with particular reference to the founding of them upon geographical discriminations. Let me now take a more comprehensive view, and warn you, in the most solemn manner, against the baneful effects of the spirit of party generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge, natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of the public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight,) the common and continual mischiefs of the spirit of party are sufficient to make it the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foments occasional riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself, through the channels of party passion. Thus the policy and will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This, within certain limits, is probably true; and in governments of a monarchical cast, patriotism may look with indulgence if not with favor, upon the spirit of party. But in those of popular character, in governments purely elective, it is a spirit not to be encouraged. From the natural tendency, it is certain there will always be enough of that spirit for every salutary purpose; and there being constant danger of excess, the effort ought to be, by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume.

It is important, likewise, that the habits of thinking, in a free country, should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres; avoiding, in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power, and proneness to abuse it, which predominate in the human heart, is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing into different depositories, and constituting each the guardian of the public weal against invasions of the other, has been evinced by experiments, ancient and modern; some of them in our country, and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers, be, in any particular, wrong, let it be corrected by an amendment in the way in which the constitution designates. But let there be no change by usurpation, for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance, in permanent evil, any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness—these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and cherish them. A volume could not trace all their connexion with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principles.

It is substantially true that virtue or morality is a necessary spring of popular government. The rule indeed extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it, is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering, also, that timely disbursements to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives; but it is necessary that

public opinion should co-operate. To facilitate to them the performance of their duty, it is essential that you should particularly bear in mind, that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment, inseparable from the selection of the proper objects, (which is always a choice of difficulties,) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue which the public exigences may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all: religion and morality enjoin this conduct; and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt but that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be that Providence has connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! it is rendered impossible by its vices!

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies, against particular nations, and passionate attachment for others, should be excluded; and that in the place of them, just and amicable feelings towards all should be cultivated. The nation which indulges towards another an habitual hatred, or an habitual fondness, is, in some degree, a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur.

Hence frequent collisions, obstinate, envenomed, and bloody

contests. The nation, prompted by ill-will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts through passion what reason would reject; at other times it makes the animosity of the nation subservient to the projects of hostility, instigated by pride, ambition, and other sinister and pernicious motives. The peace often, sometimes, perhaps, the liberty of nations has been the victim.

So, likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and the wars of the latter without adequate inducements or justification. It leads, also, to concessions to the favorite nation of privileges denied to others, which are apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained, and by exciting jealousy, ill-will, and a disposition to retaliate in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupt, or deluded citizens, (who devote themselves to the favorite nation,) facility to betray or sacrifice the interests of their own country without odium, sometimes even with popularity; gilding with the appearances of a virtuous sense of obligation to a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence, in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the art of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak, towards a great and powerful nation, dooms the former to be the satellite of the latter. Against the insidious wiles of foreign influence, (I conjure you to believe me, fellow-citizens,) the jealousy of a free people ought to be constantly awake, since history and experience prove that fo-

eign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial, else it becomes the instrument of the very influence to be avoided, instead of a defence against it. Excessive partiality for one foreign nation, and excessive dislike for another, cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots who may resist the intrigues of the favorite, are liable to become suspected and odious; while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us, in regard to foreign nations, is, in extending our commercial relations, to have with them as little political connexion as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties, in the ordinary vicissitude of her politics, or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation, invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon, to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor or caprice?

It is our true policy to steer clear of permanent alliances

with any portion of the foreign world: so far I mean, as we are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy. I repeat, therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary, and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, and a liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand; neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the stream of commerce, but forcing nothing; establishing, with powers so disposed in order to give trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and natural opinion will permit, but temporary, and liable to be from time to time, abandoned or varied, as experience and circumstances shall dictate; constantly keeping in view that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old affectionate friend, I dare not hope they will make the strong and lasting impression I could wish—that they will control the usual current of the passions, or prevent our na-

tion from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good; that they may now and then recur to moderate the fury of party spirit; to warn against the mischiefs of foreign intrigue; to guard against the impostures of pretended patriotism; this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far in the discharge of my official duties I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe, my Proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice, and by that of your representatives in both horses of Congress, the spirit of that measure has continually governed me; uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aids of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound in duty and interest to take, a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance and firmness.

The considerations which respect the right to hold this conduct, it is not necessary on this occasion to detail. I will only observe, that according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without any thing more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct,

will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress, without interruption, to that degree of strength and constancy, which is necessary to give it, humanly speaking, the command of its own fortune.

Though in reviewing the incidents of my administration, I am unconscious of intentional error; I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence; and that, after forty-five years of my life dedicated to its service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a man who views in it the native soil of himself and his progenitors for several generations; I anticipate, with pleasing expectation, that retreat, in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow-citizens, the benign influence of good laws, under a free government; the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

SYNOPSIS

OF THE CONSTITUTIONS OF MAINE, NEW-HAMPSHIRE, VERMONT, MASSACHUSETTS, RHODE ISLAND AND CONNECTICUT.

MAINE.

The constitution of this state was formed in 1819, and went into operation in 1820.

The *legislature* consists of a senate and a house of representatives. The two bodies together are styled, The *Legislature of Maine.*

The number of senators can not be less than twenty, nor more than thirty-one. They are chosen by districts. The number of representatives can not be less than 100, nor more than 200. Representatives are apportioned among the towns. A town having 1,500 inhabitants is entitled to one representative; having 3,750, two; 6,750, three; 10,500, four; 15,000, five; 20,250, six; 26,250, seven; no town being entitled to more than seven. Provision is made for changing the number when it shall have reached 200.

A senator must be twenty-five years of age when his term of service commences; must have resided in the state a year; and for three months next preceding his election he must have resided in the district for which he is elected. Representatives are eligible at the age of twenty-one; in other respects their qualifications are the same as those of senators. A naturalized citizen must have been such five years, to be eligible to either office.

The legislature meets annually at Augusta, in May.

The *executive* power is vested in a governor, elected annually. He must be thirty years of age; a natural born citizen of the United States; have been five years a resident of the state. His term of office commences on the first Wednesday in January. A *council* of seven members is an-

nually chosen by joint ballot of the senators and representatives, to advise the governor in the executive part of the government. There is no lieutenant-governor.

A *secretary of state* and a *treasurer* are chosen annually by joint ballot of both houses of the legislature.

The annual election is held on the second Monday in September.

The *judicial* power is vested in a supreme judicial court, and such inferior courts as the legislature may from time to time establish. All the judges are appointed by the governor and council, and hold their offices during good behavior, but not beyond the age of seventy years. Justices of the peace hold their offices seven years. All judicial officers are appointed by the governor, with the advice and consent of the council.

The *right of suffrage* is enjoyed by every male citizen twenty-one years of age, (except paupers, persons under guardianship, and Indians not taxed,) who has resided in the state three months next preceding an election.

NEW HAMPSHIRE.

A constitution was established in 1784; which was altered and amended in 1792, and is now in force.

The *legislature* consists of a senate and a house of representatives. The two bodies together are styled, *The General Court of New Hampshire*.

The *senate* consists of twelve members, chosen by the people in districts. Representatives are apportioned among the towns; each town, or incorporated township, containing 150 ratable (taxable) polls, being entitled to one representative; and for every 300 additional polls, an additional representative.

A senator must own a freehold estate of the value of two hundred pounds, lying within the state; be thirty years of age; have been an inhabitant of the state seven years immediately preceding his election; and he at the time reside in the district for which he is chosen. A representative must have an estate of one hundred pounds in value, at least one

half of which to be a freehold, and be at the time of his election an inhabitant of the district he is chosen to represent.

The general court meets annually at Concord, on the first Wednesday in June.

The *executive* power is vested in a governor and a council consisting of five members. No lieutenant-governor. The governor, council, and members of the legislature, are all elected annually by the people on the second Tuesday in March, and their term of service commences on the first Wednesday in June. A governor must have an estate of five hundred pounds, one half freehold, and be in other respects qualified as a senator.

A *secretary of state* and a *treasurer* are annually chosen by joint ballot of the legislature.

The *judiciary* power is vested in a superior court, and a court of common pleas. The judges are appointed by the governor and council, and hold their offices during good behavior, and until the age of seventy years. All judicial officers are appointed by the governor and council.

The *right of suffrage* is granted to every male inhabitant of the age of twenty-one years, except paupers, and persons excused from paying taxes at their own request.

VERMONT.

A constitution was formed in 1777, and revised in 1786. The present constitution was adopted in July, 1793. In 1836 it was amended, and a senate was established.

The *legislative* power is vested in a senate and house of representatives, which are styled, *The General Assembly of the State of Vermont.* They are elected annually by the people.

The senate consists of thirty members, apportioned among the counties. The house of representatives is composed of one representative from each town. Senators must be thirty years of age; and senators and representatives must have resided in the state two years.

The general assembly meets annually on the second Thursday of October, at Montpelier.

The *executive* power is vested in a governor, elected annually by the people. A lieutenant-governor is also chosen at the same time. The annual election for the election of state officers, is on the first Tuesday of September.

A state *treasurer* is elected annually by the people; and a *secretary of state*, an *auditor of accounts* and an *auditor of the treasury*, are annually appointed by the general assembly on joint ballot.

The *judicial* power of the state is vested in a supreme court, consisting of five judges; in county courts consisting of two judges each, and one of the judges of the supreme court, who is to preside as chief judge; and in justices of the peace. All judicial officers are appointed by the legislature.

The *right of voting* is enjoyed by every man of the age of twenty-one years who is of quiet and peaceable behavior, and who has resided in the state a year next preceding the election of representatives.

A *council of censors*, thirteen in number, is chosen every seven years on the last Wednesday in March, and meets on the first Wednesday in June. The duties of this council are, to inquire whether the constitution has been preserved inviolate; whether the legislative and executive branches of the government have performed their duties as guardians of the people; whether the public taxes have been justly laid; in what manner the public moneys have been disposed of; and whether the laws have been duly executed. The council has also power to call a state convention to amend the constitution.

MASSACHUSETTS.

The constitution of this state was formed in 1780, and amended in 1821. Several amendments have since been recommended by the legislature, and adopted by the people.

The *legislature* is composed of a senate and a house of representatives; which together are styled, *The General Court of Massachusetts.*

The senate consists of forty members, apportioned among the several districts of the state, in proportion to the share of state taxes which the inhabitants of the respective districts are liable to pay. Representatives are elected annually by cities and towns, according to population. Every town having 300 ratable polls elects one representative, and for every 450 more such polls, one additional representative. If a town has less than 300 polls, it is represented only such proportion of the time within every ten years, as is the proportion of its number of polls to 300. If a town has more than a sufficient number of polls for one or more representatives, the town is entitled to an additional representative for such surplus of polls for such proportion of the ten years as the number of surplus polls bears to 450.

The general court meets annually at Boston, on the first Wednesday of January.

The *executive* magistrate is styled, *The Governor of the Commonwealth of Massachusetts*, and his title of "His Excellency." The governor is elected annually; also a lieutenant-governor, whose title is "His Honor." There is in this state an executive *council* of nine members, chosen from the senators by joint ballot of the senators and representatives. The lieutenant-governor is also a member of the council.

The annual election is held on the second Monday of November.

The *treasurer and receiver-general*, and the *secretary*, are annually chosen by the legislature on joint ballot.

The *judicial* powers are vested in a supreme court, a court of common pleas, and such other courts as the legislature may establish. All judicial officers are appointed by the governor and council. The judges hold their offices during good behavior.

The *right of suffrage* is enjoyed by every male citizen twenty-one years of age and upward, (except paupers and persons under guardianship,) who has resided within the state one year, and within the town or district in which he claims the right to vote, six months, next preceding any election.

RHODE ISLAND.

A charter was granted to the colony of Rhode Island by King Charles II., in 1663, under which the government of the state was continued until the present constitution took its place; which was adopted in 1842, and went into effect on the first Tuesday in May, 1843.

The *legislature* consists of a senate and a house of representatives, styled *The General Assembly.*

The senate is composed of the lieutenant-governor, and one senator from each of the thirty-one towns in the state. It is a peculiarity in the senate of this state, that the governor is its presiding officer. The governor, and in his absence the lieutenant-governor, presides in the senate and in grand committee, having, however, only a casting vote. The house of representatives consists of sixty-nine members, and may not exceed seventy-two. Representatives are apportioned among the towns according to population, each town to be entitled to at least one representative, and no town more than one-sixth of the whole number (72) to which the house is limited.

The legislature meets twice a year. One session is held at Newport on the first Tuesday of May, for the purposes of election and other business; the other on the last Monday of October at South Kingstown once in two years, and the intermediate years alternately at Bristol and East Greenwich; and an adjournment from the October session annually at Providence.

The chief *executive* power is vested in a governor, who, with the lieutenant-governor, is elected annually by the people.

A *secretary of state*, an *attorney-general*, and a *general treasurer*, are also annually elected.

The annual election for state officers is held on the first Wednesday in April.

The *judicial* power of the state is vested in a supreme court, and such inferior courts as the legislature may establish. The supreme court consists of a chief justice and three associate justices, elected by the two houses of the legisla-

ture in grand committee, and who hold their offices until removed by a resolution passed by both houses of the assembly. A court of common pleas for each county has been established, consisting of a justice of the supreme court, and two associate justices. Justices of the peace are elected in the towns.

Every male *native* citizen of the United States of the age of twenty-one years, who has resided in the state two years, and in the town or city in which he may offer to vote, six months; whose name has been registered in the town clerk's office at least seven days before the election; who has paid within one year a tax of one dollar, or has done military duty within the year; is entitled to vote at all elections by the people. Naturalized citizens are required, in addition to these qualifications, to possess real estate in the town, of the value of $134 free from all incumbrances, or which rents for $7 a year.

CONNECTICUT.

This state was governed under the colonial charter granted by King Charles II., in 1662, until the year 1818, when the present constitution was framed.

The *legislative* power is vested in a senate and a house of representatives, together styled *The General Assembly*.

The senate must consist of not less than eighteen, nor more than twenty-four, who are chosen by districts. The present number is twenty-one. Representatives are chosen by the towns. Each of the older and more populous towns sends two representatives; others only one each. Senators and representatives are elected annually.

The general assembly meets every year on the first Wednesday in May, alternately at Hartford and New Haven.

The *executive* power is vested in a governor, elected annually by the people. A lieutenant-governor is chosen at the same time. A governor must be thirty years of age.

A *secretary of state* and a *treasurer* are also elected by the

people annually, and a *comptroller of public accounts* is appointed annually by the general assembly.

The annual election for state officers is held on the first Monday in April.

The *judicial* power of the state is vested in a supreme court of errors, consisting of a chief judge and four associate judges; a superior court of judicature held twice a year in each county by one of the judges of the supreme court; a county court held by a judge, called chief judge, and two associates; and courts held by justices of the peace. All judges and justices of the peace, are appointed by the general assembly. Judges of the supreme and superior courts hold their offices during good behavior; other judges and justices of the peace are appointed annually. All become disqualified at the age of seventy years.

Every *white* male citizen of the United States of the age of twenty-one years, who has gained a settlement in this state, and resided in the town in which he may offer himself to be admitted to the privilege of an elector, at least six months preceding, is an elector, if he has either of the following qualifications: a freehold estate of the yearly value of seven dollars, in this state; having been enrolled in the militia and performed military duty for one year preceding, or being liable, has been excused by law; or has paid a state tax within the year preceding, and sustains a good moral character. Such citizen, on taking the freeman's oath, becomes an elector.

NOTES ON THE GOVERNMENT OF VERMONT.

The following Notes are supplementary to the Chapters of corresponding numbers in the body of this work.

CHAPTER VIII.

Every man of the age of twenty-one years, who has resided in the state for one whole year next before the election of representatives, and is of quiet and peaceable behavior, may vote at elections.

CHAPTER IX.

The annual state election is notified by the first constable; if he is absent, by the town clerk; and if he is absent, then by one of the selectmen. The first constable, or in his absence one of the selectmen presides at the meeting, and receives the ballots. The town clerk, or if he is absent, a selectman, makes a roll of the names of the voters, which is kept by the town clerk in his office; and the election of the representative is certified by the presiding officer.

The manner in which the votes for senators are canvassed is described in the Constitution. (See Art. 5, of Amendments.)

A statement of votes given for each person for governor, lieutenant-governor, and treasurer, is sent from each town by the representative to the general assembly, where they are sorted and counted, and the result declared by a committee appointed by the senate and house of representatives. (See Art. 9, of Amendments.)

Senators are elected by plurality, other officers by majority. If a governor is not elected by the people, the general assembly elect from the persons voted for.

Town meetings for the election of town officers. (See Note to Chapter XVII.)

CHAPTER X.

Every elector is eligible to the office of representative. A representative must have resided in the state two years; the last in the town for which he is chosen. Senators must be thirty years of age.

CHAPTER XI.

A majority of each house constitutes a quorum.

CHAPTER XII.

The lieutenant-governor is president of the senate.

Passing bills. (See Amend., Art. 11.)

In Rhode Island, Delaware, Maryland, Virginia, North Carolina, South Carolina, Tennessee, and Ohio, bills are not sent to the governor for his approval.

CHAPTER XIV.

The treasurer is elected annually by the people. He gives a bond of $100,000 to the secretary of state, to be approved by the governor. He pays out moneys on orders of the auditor of accounts, and judges of the courts; and settles annually with the auditor of the treasury.

The secretary of state records all acts, laws, and resolutions passed by the general assembly; all grants of land, charters of incorporation, and other documents required to be recorded. He or his deputy must attend the sessions of the legislature. He keeps the seal of the state. Is appointed by the legislature.

The business of a state auditor or comptroller in most states, is in this state divided between the auditor of accounts and auditor of the treasury. The latter reports annually to the governor. Both appointed by the legislature.

CHAPTER XVI.

The judges of county courts have the general care and

superintendence of all county property; have power to take land by deed to the county, and sell and convey lands belonging to the county, order repairs, &c.

The sheriff has particular care and direction of the jail and jail houses; is elected annually by joint assembly of senate and house.

High bailiff is elected in the same manner; serves all writs in which the sheriff is a party.

State's attorney is appointed by the general assembly. Vacancies in the office are supplied by the county court. His bond is $4,000.

County clerk; appointed by county court; is clerk of all courts held in the county. Bond, $3,000.

County treasurer is appointed annually by the county judges. Bond, $5,000. The judges also appoint an auditor to audit and settle the accounts of the county treasurer. He reports to the judges.

Inquests are in this state held by justices of the peace.

Deeds are recorded in the town clerk's office; for the want thereof, in the county clerk's office.

CHAPTER XVII.

Town meetings are held in March; notified by selectmen by posting notices; called to order by the town clerk; if the clerk is absent, then by a selectman. A moderator is chosen to preside at the meeting.

The following officers are elected:

A town clerk.

Three, four, or five selectmen, who have the general supervision of the concerns of the town; lay out highways; make out tax bills; adjust and settle accounts against the town; and present to the annual meeting a statement of the property, finances, and pecuniary condition of the town.

A town treasurer, who keeps an account of all moneys, bonds, notes, &c., delivered him for the use of the town; and pays all orders of the selectman or overseer of the poor.

An overseer of the poor, whose duties are elsewhere described. (See Note to Chapter XXII.)

A first constable, who is collector of taxes; and if necessary, a second constable, whose general duties have been described.

Three, four, or five assessors or listers, to take the valuation of property, and assess taxes. (See Note to Chap. XIX.)

Three auditors; who examine and adjust the accounts of the town treasurer and overseer of the poor. They report to the town at annual meetings.

Fence viewers. (See Note to Chap. XXIII.)

One or more grand jurors. They inquire into and make presentment to a justice of all offences committed in town, and which come to their knowledge. He subjoins to his complaint the names of witnesses in support of the prosecution.

A sealer of weights and measures. (See Note to Chapter XXIV.)

One or more inspectors of leather.

A pound keeper. (Note to Chapter XXIV.)

Surveyors of highways. The town is divided into districts by selectmen; who have power to assess a tax of 18 cents on every dollar of the list of such town, to be paid in labor and laid out for the support of highways and bridges.

An agent to prosecute and defend suits in which the town is interested.

CHAPTER XVIII.

There is in this state a general law for incorporating villages. When a majority of the legal voters in a village containing twenty houses or more, shall, by petition in writing, request the selectmen, the selectmen establish the bounds of the village, and cause a description of the village by its name and bounds to be recorded in the town clerk's office. The inhabitants may then elect their officers, and exercise the powers of a corporation.

CHAPTER XIX.

The listers or assessors of the several towns take a list of the polls, and of the property of the inhabitants of the state.

The poll of every man between the ages of 21 and 60, is set down at $2, except students in colleges; and at the discretion of the listers, sick or infirm persons. Polls of persons liable to do military duty, are exempt from state tax; and if fully equipped, from all but highway tax. The polls of practising attorneys and physicians not less than $1, nor more than $30, according to their gains. Merchants, not less than $15, nor exceeding $600.

Horses and other live stock are set down at a sum per head; as, a horse or mule valued at $25 or under, is set down at $1; valued $25, and not exceeding $75, at $3. Sheep, at 10 cents a head. Other stock in one or the other of these ways.

Real property and certain kinds of personal, money, debts due, &c., are set down at six per cent. of their value. Other kinds of property at different rates.

Listers lodge the lists with the town clerk. The selectmen are a board of relief, and may reduce lists of persons, if too high. They make out and deliver to the town clerk a corrected list of the polls and property before the 10th of December, and a list of polls and personal property to the general assembly by the 15th of October.

The selectmen make out the tax bill and deliver it to the collector, (first constable,) who collects it, and pays the money to the treasurers. Collectors may take and sell goods and chattels for taxes; for the want of which they may take the body and commit it to jail; and if neither can be found, they may sell land.

When the general assembly imposes a state tax, the state treasurer issues his warrant to the first constable of each town, commanding him to levy and collect the same, and pay it into the state treasury. When the legislature imposes a tax for county purposes, the county treasurer issues warrants for its collection. When towns impose a tax, the selectmen make out the tax bill, and apply to a justice to issue a warrant to collect the tax.

CHAPTER XXI.

A state school fund was established in 1794; and some

provision was since made for its increase. This state fund was abolished in 1847. The public support received by the schools at present is from the income of the United States deposit fund, and from what may be raised by taxation. A tax of nine cents on every dollar of the amount set to each person on the assessment list, may be annually assessed by the selectmen for the support of schools in the town.

A state superintendent is appointed by the general assembly, whose general duties are described in chapter XXI.

A county superintendent in each county, appointed by the judges of the county court; whose duties also have been described.

One or more, not exceeding three town superintendents, are elected at town meetings. Duties described.

District officers are a moderator, a clerk, collector, and prudential committee. The latter keep the school houses in order, provide fuel and furniture, employ teachers, &c.

CHAPTER XXII.

Each town may provide a poor house and work house; and the overseer furnishes materials for setting persons to work. A number of towns may join in building such house; in which case each appoints a superintendent of the poor. The superintendents are a corporation, to build and superintend the poor house, and to have care of the poor in such towns.

Overseers or superintendents may bind out children of poor persons; and may bind out to labor or employ in work houses, all who live idly and pursue no lawful business, and all disorderly persons and vagrants. Poor houses are work houses and houses of correction.

There is an institution for the deaf and dumb and the blind, under the care of three commissioners appointed annually by joint assembly. The sum of $3,000 yearly is drawn from the treasury for the benefit of the deaf and dumb, and $1,200 for the blind.

CHAPTER XXIII.

A FENCE four feet and a half high, and other things, as brooks, creeks, rivers, ditches, &c., judged by fence viewers equivalent to such fence, is deemed legal and sufficient.

A person taking up stray beasts or finding lost property, of the value of $3, is required to advertise the same in two public places, describing them. If they are not claimed by the owner within twenty days, the finder or taker up must cause the advertisement to be recorded in the town clerk's office. If the beasts or property exceed in value $10, the advertisement is also to be published in a newspaper circulating in the town. If the owner does not appear and prove his title to the property within ninety days from the time of posting, it may be sold at public auction; and the avails of such sale, after paying all expenses, are paid into the treasury of the town for the use of the owner, if claimed within a year; otherwise for the use of the town. Persons neglecting to advertise according to law, are not entitled to anything.

Each town is required to keep one pound or more. Any person may impound a beast, giving notice to the owner; the notice to require the owner to appear at the dwelling-house of the impounder within twenty-four hours, to appoint appraisers of damage. Each party appoints one appraiser; and if the two disagree, they appoint a third. To determine a matter in such case, at least two of them must agree. If the owner does not appear, a justice may appoint appraisers.

A pound-keeper feeds and waters animals at the expense of the owner. If the owner is unknown, the beasts are advertised in that and two adjoining towns; and if the owner does not appear as above required, the beasts may be sold: and after the sale, the impounder causes a description of the beasts and an account of the damages and expenses to be recorded in the town clerk's office.

Animals may not be impounded, unless the fence to the enclosure be sufficient; except fences adjoining highways, and fences which the owner of the beasts is required to keep in repair.

CHAPTER XXIV.

A PERSON may not sell spirituous liquors under 20 gallons, or keep an inn or house of public entertainment, without license. The civil authority of each town consider applications for licenses, and nominate to the county court such persons as they think proper to be licensed. The sum to be paid for a license, is from $1 to $30.

Retailers may not sell in less quantities than a pint, nor in any quantity to be drank in or about the store or place where sold. Innkeepers may not sell to be drank *but* on their premises.

Keepers of victualing-houses may be licensed to sell fruits, provisions, and liquors, except wine and distilled liquors. All persons licensed as above, give bonds for keeping orderly houses, and tavern-keepers are to keep the necessary accommodations for strangers and travelers, on pain of having their licenses annulled by the county court.

The state treasurer is the state sealer; the county treasurer is the county sealer. The selectmen of each town procure a set of weights and measures for the town, proved and sealed by the county treasurer. The town sealer gives public notice of a day on which persons are to bring such weights and measures as are to be used in buying and selling, to be sealed.

The half-bushel measure must be withinside, $13\frac{3}{4}$ inches in diameter; the peck, $10\frac{3}{4}$ inches. Of potatoes, apples, charcoal, lime and ashes, one bushel and three-fourths of a peck make a bushel. The standard weight of grain is, of wheat, 60 pounds; rye and corn, 56; barley and buckwheat, 46; oats, 32.

Millers' toll for grinding is one-sixteenth of the quantity to be ground; and if bolted, one-sixty-fourth is added.

Peddlers may not peddle in this state, without license, any goods the growth or manufacture of any foreign country, nor any cotton, linen or silk goods, plated ware, jewelry or essences, which are the growth or manufacture of the United States. Fine for each offence, $25 to $150. Licenses are granted by county clerks, the blanks being furnished by the state treasurer. The price of a license for

peddling on foot, is $10; with a carriage drawn by one horse or more, $25, annually.

Exhibitions of animals and other natural curiosities may be licensed by the selectmen.

CHAPTER XXV.

Persons exempt from doing military duty in this state, are, ministers of the gospel; members of fire companies to the number of twenty to each engine; faculties and students of colleges; judges, sheriffs and constables; practising physicians and surgeons; stated school masters; ferry-men and millers. Commissioned militia officers, having served five years as such, are also exempt. Persons scrupulous of bearing arms, are exempt by paying $2 a year.

Courts martial do not in all the states consist of three members.

CHAPTER XXVI.

Justices of the peace are elected by the legislature. They have power to try *criminal* actions when the punishment is by fine not exceeding $10; and may cause to be apprehended and committed to jail or bound over for trial, all persons charged with crimes beyond their jurisdiction. They have power to try civil actions for ordinary debts to the amount of $100; and they may take judgment by confession for any debt; the confession to be made by the debtor personally.

The plaintiff in a suit is required to give to the justice security for the costs of prosecution.

A writ of summons or attachment must be served not less than six nor more than sixty days before the day appointed for trial; and such writ must be returnable within the town in which either party resides, if either resides in the state.

If one of the parties does not appear within two hours after the time appointed for trial, the justice may enter judgment on non-suit or default against such party.

CHAPTER XXVII.

A JURY in a justice's court is thus obtained: The constable prepares and folds up eighteen ballots, each containing the name of a respectable freeholder. The justice puts them into a box, and shakes them together, and the officer draws out one at a time until six are drawn who shall not be challenged. The justice issues a venire, and the constable summons the jurors drawn.

Executions for the collection of judgments, to the amount of $53, exclusive of costs, must be returned within 60 days. If for a greater sum, 120 days. If goods and chattels enough can not be found, the body of the debtor may be taken. Debtors ordered to be imprisoned for debt, may, on bail, be admitted to the jail liberties. The person by whom a debtor is bailed, binds himself to pay the debt if the debtor shall be found beyond the said liberties before the expiration of the term for which the body is committed.

Appeals from the judgment of a justice's court may be taken to the next county court, if claimed within two hours after the judgment is rendered; the party appealing giving security to the other, to pay him all damages and additional costs, if he shall not prosecute his appeal to effect. In some enumerated cases, no appeal is allowed.

CHAPTER XXVIII.

A COUNTY court consists of a judge of the supreme court, called *chief judge*, and two associate judges appointed for each county. The state is divided into five judicial circuits; and the judges of the county court annually designate one of their number for each circuit. There being five judges of the supreme court, a circuit is assigned to each; and each judge presides at the county courts held in his circuit. A county court is held in each county twice a year.

County courts have *original* and exclusive jurisdiction of all original civil actions, except such as are cognizable by a justice of the peace; and *appellate* jurisdiction of all causes appealable to such court; and original jurisdiction of such criminal offences as are not cognizable by a justice. [By

original jurisdiction is meant the power to *originate* an action, or that a suit may be *commenced* in a court. *Appellate* jurisdiction means the power to try causes brought by *appeal* from a lower court.]

The supreme court consists of one chief judge and four assistant judges, all appointed by joint assembly. Three judges constitute a quorum. This court tries and determines all such questions of law as are removed from the county courts; and acts upon appeals from courts of chancery.

Juries in county courts are thus obtained: At each annual town meeting, such of the civil authority as are present, agree upon such number of grand and petit jurors as they judge will be the proportion of their town; which number shall be nominated by the board, and chosen by the meeting. The town clerk writes their names on separate pieces of paper, and keeps them in a box, to be drawn by the sheriff as provided by law.

Previous to the sitting of each court, the clerk issues a *venire* commanding the sheriff to summon eighteen men from the several towns to serve as *grand jurors*, and such number for *petit jurors* as the court shall from time to time direct. The sheriff or his deputy goes to each town mentioned in the venire, and in the presence of the town clerk or a selectman, draws out of the box the names of as many persons as he is required to summon from such town.

CHAPTER XXX.

The real estate of an intestate in this state, descends, first, to the children in equal shares, or to their legal representatives. If he has no issue, one-half goes to the widow, and the other half as if no widow had survived: if he has no kindred, the whole goes to the widow. If he leaves no issue nor widow, the whole goes to the father. If he leaves neither issue, widow nor father, then to the brothers and sisters and their representatives; and if the mother is living, she shares the same as a brother or sister. If none of the above mentioned relations live, the estate goes to the next of kin to the intestate. If there are no relations who can

lawfully inherit the property, it escheats to the town for the use of schools.

CHAPTER XXXI.

Real and personal estate may be bequeathed by all persons of full age and sound mind. Females are of age in this state at the age of eighteen years. A will must be signed by the testator and three or more witnesses, in presence of the testator and of each other.

CHAPTER XXXII.

Deeds and mortgages are to be signed by two or more persons as witnesses. Deeds conveying land in this state, may be acknowledged in another state before the proper officers, if the acknowledgment be certified by such officers according to the laws of such state.

Leases for a longer term than one year, must be executed as a deed, and recorded, in order to hold against the claims of other persons than the grantor and his heirs. Assignments of deeds are also to be recorded.

CHAPTER XXXIII.

Contracts for the sale of property above the value of $40, to be valid, must be in writing.

CHAPTER XXXVII.

A note or bill not subject to grace, and becoming payable on Sunday, is not due till Monday.

If a higher rate of interest than 6 per cent. is paid in this state, the excess may be recovered at law.

CHAPTER XXXVIII.

A tax is provided in this state for paying the debts of insolvent banks. All banks chartered since 1831, are required to pay yearly upon their capital stock, three-fourths

per cent. of four and a half per cent. shall have been paid. If the fund thus raised shall be so reduced by the payment of the losses of insurance thereon as to require an increase, the annual tax in each succeeding year shall be fixed at such rate as will restore the fund to four and a half per cent.

CHAPTER XXIX

Forms of solemnized marriage must be previously given by a minister or the town clerk in every public meeting; or a notice signed by a minister, town clerk, or a justice, must be posted in public places. Marriages may be solemnized by any ordained minister, or a justice of the peace within the county.

Certificates are registered by the judges of probate.

CHAPTER XL

Minor children may be bound as apprentices by the father; or if there is no father or none that is competent, by the mother, or legal guardian. If there is neither of these persons they may be bound with the approbation of the selectmen. If they are above fourteen years of age, and bound by the parent or guardian, their consent must be expressed to the indenture and recorded by signing the same. Overseers of the poor may bind out the children of paupers, or children who are likely to become paupers. Such children are to be taught reading, writing, and arithmetic.

CHAPTER XLI

A man, if found to commit a capital offence; if not, imprisonment and fine.

Perjury, if it seems to take life, is punishable by death.

Dueling, if death ensue is a capital crime. In other cases, dueling or challenging to fight a duel, is punishable by imprisonment not exceeding ten years, or fine not exceeding $1,000, and the criminal to be forever incapable of holding office, or of enjoying the privileges of a freeman.

Larceny, when the value of the property stolen does not

exceed $7. is punished by imprisonment in a county jail or by fine, or both.

The state prison is at Windsor. The superintendence of the prison, and the management of its concerns, as buying provisions and materials for supporting and employing the prisoners, paying out moneys, and keeping the accounts of the prison, are committed to a superintendent and board of directors, elected by the senate and house.

CONSTITUTION OF VERMONT.

ADOPTED BY THE CONVENTION HOLDEN AT WINDSOR JULY 4th 1793.

CHAPTER I.

A Declaration of Rights of the Inhabitants of the State of Vermont.

ARTICLE 1.

THAT all men are born equally free and independent and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety: therefore, no male person, born in this country, or brought from over sea, ought to be holden by law to serve any person as a servant, slave, or apprentice, after he arrives at the age of twenty-one years, nor female, in like manner, after she arrives to the age of eighteen years, unless they are bound by their own consent, after they arrive at such age, or bound by the law for the payment of debts, damages, fines, costs, or the like.

ARTICLE 2.

That private property ought to be subservient to public uses when necessity requires it; nevertheless, when any person's property is taken for the use of the public, the owner ought to receive an equivalent in money.

ARTICLE 3.

That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understandings, as in their opinion shall be regulated by the word of God; and that no man ought to, or of right can, be compelled to attend any religious worship,

or erect or support any place of worship, or maintain any minister, contrary to the dictates of his conscience; nor can any man be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments or peculiar mode of religious worship; and no authority can or ought to be invested in, or assumed by, any power whatever, that shall in any case interfere with, or in any manner control, the rights of conscience in the free exercise of religious worship. Nevertheless, every sect or denomination of Christians ought to observe the Sabbath, or Lord's day, and keep up some sort of religious worship, which to them shall seem most agreeable to the revealed will of God.

ARTICLE 4.

Every person within this state ought to find a certain remedy, by having recourse to the laws for all injuries or wrongs which he may receive in his person, property, or character: he ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly and without delay; conformably to the law.

ARTICLE 5.

That the people of this state, by their legal representatives, have the sole inherent, and exclusive right of governing and regulating the internal police of the same.

ARTICLE 6.

That all power being originally inherent in, and consequently derived from, the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants, and at all times, in a legal way, accountable to them.

ARTICLE 7.

That government is or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single man, family, or set of men, who are a part only of that community; and that the community hath an indubitable, unalienable, and indefeasible right to reform

or alter government, in such manner as shall be, by that community, judged most conducive to the public weal.

ARTICLE 8.

That all elections ought to be free and without corruption, and that all freemen, having a sufficient evidence, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution.

ARTICLE 9.

That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his proportion towards the expense of that protection, and yield his personal service, when necessary, or an equivalent thereto; but no part of any person's property can be justly taken from him, or applied to public uses, without his consent, or that of the representative body of freemen; nor can any man, who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent; nor are the people bound by any law but such as they have in like manner assented to, for their common good; and previous to any law being made to raise a tax, the purpose for which it is to be raised ought to appear evident to the legislature to be of more service to the community than the money would be if not collected.

ARTICLE 10.

That in all prosecutions for criminal offences, a person hath a right to be heard by himself and his counsel; to demand the cause and nature of his accusation; to be confronted with the witnesses; to call for evidence in his favor, and a speedy public trial, by an impartial jury of his country; without the unanimous consent of which jury, he cannot be found guilty; nor can he be compelled to give evidence against himself; nor can any person be justly deprived of his liberty, except by the laws of the land, or the judgment of his peers.

ARTICLE 11.

That the people have a right to hold themselves, their

houses, papers, and possessions, free from search or seizure; and, therefore, warrants without oath or affirmation first made, affording sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places; or to seize any person or persons, his, her, or their property, not particularly described, are contrary to that right, and ought not to be granted.

ARTICLE 12.

That when an issue in fact, proper for the cognizance of a jury, is joined in a court of law, the parties have a right to trial by jury, which ought to be held sacred.

ARTICLE 13.

That the people have a right to a freedom of speech, and of writing and publishing their sentiments, concerning the transactions of government, and therefore the freedom of the press ought not to be restrained.

ARTICLE 14.

The freedom of deliberation, speech, and debate, in the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation, or prosecution, action, or complaint, in any other court or place whatsoever.

ARTICLE 15.

The power of suspending laws, or the execution of laws, ought never to be exercised but by the legislature, or by authority derived from it, to be exercised in such particular cases as this constitution, or the legislature, shall provide for.

ARTICLE 16.

That the people have a right to bear arms for the defence of themselves and the state; and, as standing armies in time of peace are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power.

ARTICLE 17.

That no person in this state can, in any case, be subjected to law martial, or to any penalties or pains by virtue of that

law, except those employed in the army, and the militia in actual service.

ARTICLE 18.

The frequent recurrence to fundamental principles, and firm adherence to justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the blessings of liberty, and keep government free; the people ought therefore, to pay particular attention to these points, in the choice of officers and representatives, and have a right in a legal way, to exact a due and constant regard to them, from their legislators and magistrates, in making and executing such laws as are necessary for the good government of the state.

ARTICLE 19.

That all people have a natural and inherent right to emigrate from one state to another that will receive them.

ARTICLE 20.

That the people have a right to assemble together to consult for their common good; to instruct their representatives; and apply to the legislature for redress of grievances by address, petition or remonstrance.

ARTICLE 21.

That no person shall be liable to be transported out of this state for trial of any offence committed within the same.

CHAPTER II.

Plan or Form of Government.

§ 1. The commonwealth or state of Vermont shall be governed hereafter by a governor or lieutenant-governor, council, and an assembly of the representatives of the freemen of the same, in manner and form following:

§ 2. The supreme legislative power shall be vested in a house of representatives of the freemen of the commonwealth or state of Vermont.

§ 3. The supreme executive power shall be vested in a

governor, or, in his absence, a lieutenant-governor, and council.

§ 4. Courts of justice shall be maintained in every county in this state, and also in new counties, when formed; which courts shall be open for the trial of all causes proper for their cognizance; and justice shall be therein impartially administered, without corruption or unnecessary delay. The judges of the supreme court shall be justices of the peace throughout the state; and the several judges of the county courts, in their respective counties, by virtue of their office, except in the trial of such causes as may be appealed to the county court.

§ 5. A future legislature may, when they shall conceive the same to be expedient and necessary, erect a court of chancery, with such powers as are usually exercised by that court, or as shall appear for the interest of the commonwealth: Provided, they do not constitute themselves the judges of the said court.

§ 6. The legislative, executive, and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other.

§ 7. In order that the freemen of this state might enjoy the benefit of election, as equally as may be, each town within this state, that consists or may consist of eighty taxable inhabitants within one septenary, or seven years next after the establishing this constitution, may hold elections therein, and choose each two representatives; and each other inhabited town in this state may, in like manner, choose each one representative to represent them in general assembly, during the said septenary, or seven years; and after that, each inhabited town may, in like manner, hold such election, and choose each one representative, for ever thereafter.

§ 8. The house of representatives of the freemen of this state shall consist of persons most noted for wisdom and virtue, to be chosen by ballot, by the freemen of every town in this state, respectively, on the first Tuesday in September annually for ever.

§ 9. The representatives so chosen, a majority of whom

shall constitute a quorum for transacting any other business than raising a state tax, for which two-thirds of the members elected shall be present, shall meet on the second Thursday of the succeeding October, and shall be styled *The General Assembly of the State of Vermont:* they shall have power to choose their speaker, secretary of state, their clerk, and other necessary officers of the house—sit on their own adjournments—prepare bills, and enact them into laws—judge of the elections and qualifications of their own members: they may expel members, but not for causes known to their own constituents antecedent to their own elections: they may administer oaths and affirmations in matters depending before them, redress grievances, impeach state criminals, grant charters of incorporation, constitute towns, boroughs, cities, and counties: they may, annually, on their first session after their election, in conjunction with the council, or oftener if need be, elect judges of the supreme and several county and probate courts, sheriffs, and justices of the peace; and also with the council may elect major-generals and brigadier-generals, from time to time, as often as there shall be occasion; and they shall have all other powers necessary for the legislature of a free and sovereign state; but they shall have no power to add to, alter, abolish, or infringe any part of this constitution.

§ 10. The supreme executive council of this state shall consist of a governor, lieutenant-governor, and twelve persons chosen in the following manner, viz.: The freemen of each town shall, on the day of the election, for choosing representatives to attend the general assembly, bring in their votes for governor, with his name fairly written, to the constable, who shall seal them up, and write on them, *votes for the Governor,* and deliver them to the representatives chosen to attend the general assembly; and at the opening of the general assembly there shall be a committee appointed out of the council and assembly, who, after being duly sworn to the faithful discharge of their trust, shall proceed to receive, sort and count the votes for the governor, and declare the person who has the major part of the votes to be governor for the year ensuing. And if there be no choice made, then

the council and general assembly, by their joint ballot, shall make choice of a governor. The lieutenant-governor and treasurer shall be chosen in the manner above directed. And each freemen shall give in twelve votes, for twelve counsellors, in the same manner, and the twelve highest in nomination shall serve for the ensuing year as counsellors.

§ 11. The governor, and, in his absence, the lieutenant-governor, with the council, a major part of whom, including the governor, or lieutenant-governor, shall be a quorum to transact business, shall have power to commission all officers, and also to appoint officers, except where provisions is, or shall be otherwise made by law, or this frame of government; and shall supply every vacancy in any office, occasioned by death, or otherwise, until the office can be filled in the manner directed by law or this constitution.

They are to correspond with other states, transact business with officers of government, civil and military, and to prepare such business as may appear to them necessary to lay before the general assembly. They shall sit as judges to hear and determine on impeachments, taking to their assistance, for advice only, the judges of the supreme court. And shall have power to grant pardons, and remit fines, in all cases whatsoever, except in treason and murder; in which they shall have power to grant reprieves, but not to pardon, until after the end of the next session of the assembly; and except in cases of impeachment, in which there shall be no remission or mitigation of punishment, but by act of legislation.

They are also to take care that the laws be faithfully executed. They are to expedite the execution of such measures as may be resolved upon by the general assembly. And they may draw upon the treasury for such sums as may be appropriated by the house of representatives. They may also lay embargoes, or prohibit the exportation of any commodity, for any time not exceeding thirty days, in the recess of the house only. They may grant such licences as shall be directed by law; and shall have power to call together the general assembly, when necessary, before the day to which they shall stand adjourned. The governor shall

be captain general and commander-in-chief of the forces of the state, but shall not command in person, except advised thereto by the council, and then only so long as they shall approve thereof. And the lieutenant-governor shall, by virtue of his office, be lieutenant-general of all the forces of the state. The governor, or lieutenant-governor, and the council, shall meet at the time and place with the general assembly; the lieutenant-governor shall, during the presence of the commander-in-chief, vote and act as one of the council: and the governor, and in his absence the lieutenant-governor, shall, by virtue of their offices, preside in council, and have a casting, but no other vote. Every member of the council shall be a justice of the peace, for the whole state, by virtue of his office. The governor and council shall have a secretary, and keep fair books of their proceedings, wherein any counsellor may enter his dissent, with his reason to support it; and the governor may appoint a secretary for himself and his council.

§ 12. The representatives, having met and chosen their speaker and clerk, shall, each of them, before they proceed to business, take and subscribe, as well the oath or affirmation of allegiance hereinafter directed, except where they shall produce certificates of their having heretofore taken and subscribed the same, as the following oath or affirmation, viz.:—

"You, ———, do solemnly swear (or affirm) that, as a member of this assembly, you will not propose or assent to any bill, vote, or resolution, which shall appear to you injurious to the people, nor do or consent to any act or thing whatsoever that shall have a tendency to lessen or abridge their rights and privileges, as declared by the constitution of this state; but will, in all things, conduct yourself as a faithful, honest representative, and guardian of the people, according to the best of your judgment and abilities: (*in case of an oath*) so help you God. (*And in case of an affirmation*) under the pains and penalties of perjury."

§ 13. The doors of the house in which the general assembly of this commonwealth shall sit, shall be open for the admission of all persons who behave decently, except only

when the welfare of the state may require them to be shut.

§ 14. The votes and proceedings of the general assembly shall be printed, when one-third of the members think it necessary, as soon as convenient after the end of each session, with the yeas and nays on any questions, when required by any member, except where the votes shall be taken by ballot, in which case every member shall have a right to insert the reasons of his vote upon the minutes.

§ 15. The style of the laws of this state, in future to be passed, shall be: *It is hereby enacted by the general assembly of the state of Vermont.*

§ 16. To the end that the laws, before they are enacted, may be more maturely considered, and the inconvenience of hasty determinations, as much as possible prevented, all bills which originate in the assembly shall be laid before the governor and council for their revision and concurrence, or proposals of amendment; who shall return the same to the assembly, with their proposals of amendment, if any, in writing; and if the same are not agreed to by the assembly, it shall be in the power of the governor and council to suspend the passing of such bill until the next session of the legislature: Provided, that if the governor and council shall neglect or refuse to return any such bill to the assembly, with written proposals of amendment, within five days, or before the rising of the legislature, the same shall become a law.

§ 17. No money shall be drawn out of the treasury, unless first appropriated by act of legislation.

§ 18. No person shall be elected a representative until he has resided two years in this state; the last of which shall be in the town for which he is elected.

§ 19. No member of the council or house of representatives shall, directly or indirectly, receive any fee or reward to bring forward or advocate any bill, petition, or other business to be transacted in the legislature; or advocate any cause, as counsel, in either house of legislation, except when employed in behalf of the state.

§ 20. No person ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

§ 21. Every man of the full age of twenty-one years, having resided in this state for the space of one whole year next before the election of representatives, and is of a quiet and peaceable behavior, and will take the following oath or affirmation, shall be entitled to all the privileges of a freeman of this state.

"You solemnly swear (or affirm) that whenever you give your vote of suffrage touching any matter that concerns the state of Vermont, you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the constitution, without fear or favor of any man."

§ 22. The inhabitants of this state shall be trained and armed for its defence, under such regulations, restrictions, and exceptions, as congress, agreeably to the constitution of the United States, and the legislature of this state, shall direct. The several companies of militia shall, as often as vacancies happen, elect their captain and other officers, and the captain and subalterns shall nominate and recommend the field officers of their respective regiments, who shall appoint their staff officers.

§ 23. All commissions shall be in the name of the freemen of the state of Vermont, sealed with the state seal, signed by the governor, and in his absence the lieutenant-governor, and attested by the secretary, which seal shall be kept by the governor.

§ 24. Every officer of state, whether judicial or executive, shall be liable to be impeached by the general assembly, either when in office or after his resignation or removal, for mal-administration. All impeachments shall be before the governor, or lieutenant-governor, and council, who shall hear and determine the same, and may award costs; and no trial or impeachment shall be a bar to a prosecution at law.

§ 25. As every freeman, to preserve his independence, if without a sufficient estate, ought to have some profession, calling, trade, or farm, whereby he may honestly subsist, there can be no necessity for, nor use in establishing offices of profit, the usual effects of which are dependence and servility, unbecoming freemen, in the possessors or expectants,

and faction, contention and discord among the people. But if any man is called into public service, to the prejudice of his private affairs, he has a right to a reasonable compensation; and whenever an office, through increase of fees or otherwise, becomes so profitable as to occasion many to apply for it, the profits ought to be lessened by the legislature. And if any officer shall wittingly and wilfully take greater fees than the law allows him, it shall ever after disqualify him from holding any office in this state, until he shall be restored by act of legislation.

§ 26. No person in this state shall be capable of holding or exercising more than one of the following offices at the same time, viz.: governor, lieutenant-governor, judge of the supreme court, treasurer of the state, member of the council, member of the general assembly, surveyor-general, or sheriff. Nor shall any person, holding any office of profit or trust under the authority of congress, be eligible to any appointment in the legislature, or of holding any executive or judiciary office under this state.

§ 27. The treasurer of the state shall, before the governor and council, give sufficient security to the secretary of the state, in behalf of the general assembly; and each high sheriff, before the first judge of the county court to the treasurer of their respective counties, previous to their respectively entering upon the execution of their offices, in such manner, and in sums, as shall be directed by the legislature.

§ 28. The treasurer's accounts shall be annually audited, and a fair statement thereof laid before the general assembly at their session in October.

§ 29. Every officer, whether judicial, executive, or military, in authority under this state, before he enters upon the execution of his office, shall take and subscribe the following oath or affirmation of allegiance to this state, unless he shall produce evidence that he has before taken the same; and also the following oath or affirmation of office, except military officers, and such as shall be exempted by the legislature.

The oath or affirmation of office.

"You do solemnly swear (or affirm) that you will be true and faithful to the state of Vermont, and that you will not, directly or indirectly, do any act or thing injurious to the constitution or government thereof, as established by convention: (*If an oath*) so help you God. (*If an affirmation*) under the pains and penalties of perjury."

The oath or affirmation of office.

"You, ————, do solemnly swear (or affirm) that you will faithfully execute the office of ——— for the ——— of ———; and will therein do equal right and justice to all men, to the best of your judgment and abilities, according to law: (*If an oath*) so help you God. (*If an affirmation*) under the pains and penalties of perjury."

§ 30. No person shall be eligible to the office of governor or lieutenant-governor, until he shall have resided in this state four years next preceding the day of his election.

§ 31. Trials of issues, proper for the cognizance of a jury, in the supreme and county courts, shall be by jury, except where parties otherwise agree; and great care ought to be taken to prevent corruption or partiality in the choice and return or appointment of juries.

§ 32. All prosecutions shall commence, *by the authority of the state of Vermont;* all indictments shall conclude with these words: *against the peace and dignity of the state.* And all fines shall be proportioned to the offences.

§ 33. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison after delivering up and assigning over, *bona fide*, all his estate, real and personal, in possession, reversion, or remainder, for the use of his creditors, in such manner as shall be hereafter regulated by law. And all prisoners, unless in execution or committed for capital offences, when the proof is evident or presumption great, shall be bailable by sufficient sureties; nor shall excessive bail be exacted for bailable offences.

§ 34. All elections, whether by the people or the legislature, shall be free and voluntary; and any elector, who shall

receive any gift or reward for his vote, in meat, drink, moneys, or otherwise, shall forfeit his right to elect at that time, and suffer such other penalty as the law shall direct; and any person who shall, directly or indirectly, give, promise, or bestow, any such rewards, to be elected, shall thereby be rendered incapable to serve for the ensuing year, and be subject to such further punishment as a future legislature shall direct.

§ 35. All deeds and conveyances of land shall be recorded in the town clerk's office, in their respective towns; and for want thereof, in the county clerk's office of the same county.

§ 36. The legislature shall regulate entails in such manner as to prevent perpetuities.

§ 37. To deter more effectually from the commission of crimes, by continued visible punishments of long duration, and to make sanguinary punishments less necessary, means ought to be provided for punishing by hard labor those who shall be convicted of crimes not capital, whereby the criminal shall be employed for the benefit of the public, or for the reparation of injuries done to private persons: and all persons, at proper times, ought to be permitted to see them at their labor.

§ 38. The estates of such persons as may destroy their own lives shall not for that offence be forfeited, but descend or ascend in the same manner as if such persons had died in a natural way. Nor shall any article, which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in any wise forfeited, on account of such misfortune.

§ 39. Every person of good character, who comes to settle in this state, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer land or other real estate; and, after one year's residence, shall be deemed a free denizen thereof, and entitled to all rights of a natural born subject of this state, except that he shall not be capable of being elected governor, lieutenant-governor, treasurer, counsellor,

or representative in assembly, until after two years' residence.

§ 40. The inhabitants of this state shall have liberty, in seasonable times, to hunt and fowl on the lands they hold, and on other lands not enclosed; and in like manner to fish in all boatable and other waters, not private property, under proper regulations, to be hereafter made and provided by the general assembly.

§ 41. Laws for the encouragement of virtue and prevention of vice and immorality, ought to be constantly kept in force, and duly executed; and a competent number of schools ought to be maintained in each town, for the convenient instruction of youth; and one or more grammar schools be incorporated, and properly supported, in each county in this state. And all religious societies or bodies of men, that may be hereafter united or incorporated for the advancement of religion and learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities, and estates, which they in justice ought to enjoy, under such regulations as the general assembly of this state shall direct.

§ 42. The declaration of the political rights and privileges of the inhabitants of this state, is hereby declared to be a part of the constitution of this commonwealth, and ought not to be violated on any pretence whatsoever.

§ 43. In order that the freedom of this commonwealth may be preserved inviolate for ever, there shall be chosen, by ballot, by the freemen of this state, on the last Wednesday in March, in the year one thousand seven hundred and ninety-nine, and on the last Wednesday in March, in every seven years thereafter, thirteen persons, who shall be chosen in the same manner the council is chosen, except they shall not be out of the council or general assembly, to be called the council of censors: who shall meet together on the first Wednesday in June next ensuing their election, the majority of whom shall be a quorum in every case, except as to calling a convention, in which, two-thirds of the whole number elected shall agree, and whose duty it shall be to inquire, whether the constitution has been preserved inviolate in ev-

ery part during the last septenary, including the year of their service, and whether the legislative and executive branches of government have performed their duty, as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are entitled to by the constitution: They are also to inquire, whether the public taxes have been justly laid and collected in all parts of this commonwealth; in what manner the public moneys have been disposed of; and whether the laws have been duly executed. For these purposes they shall have power to send for persons, papers, and records: they shall have authority to pass public censures, to order impeachments, and to recommend to the legislature the repealing such laws as shall appear to them to have been passed contrary to the principles of the constitution: These powers they shall continue to have for and during the space of one year from the day of their election, and no longer. The said council of censors shall also have power to call a convention, to meet within two years after their sitting, if there appears to them an absolute necessity of amending any article of this constitution, which may be defective: explaining such as may be thought not clearly expressed: and of adding such as are necessary for the preservation of the rights and happiness of the people: but the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject.

By order of Convention, July 9th, 1793.

THOMAS CHITTENDEN, *President.*

Attest, LEWIS R. MORRIS, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF VERMONT.

The following amendment was adopted by a state convention at Montpelier, on the 26th of June, 1828; the same having been previously proposed by the *seventh* council of censors, elected in 1827.

ARTICLE I. No person who is not already a freeman of of this state shall be entitled to exercise the privileges of a freeman, unless he be a natural born citizen of this, or some one of the United States, or until he shall have been naturalized, agreeably to the acts of congress.

The following twelve amendments were proposed by the *eighth* council of censors, elected in 1834, and adopted by a state convention which met at Montpelier, on the 6th of January, 1836.

ART. II. The most numerous branch of the legislature of this state shall hereafter be styled the house of representatives.

ART. III. The supreme legislative power of this state shall hereafter be exercised by a senate and the house of representatives; which shall be styled "The General Assembly of the State of Vermont." Each shall have and exercise the like powers in all acts of legislation; and no bill, resolution, or other thing, which shall have been passed by the one, shall have the effect of, or be declared to be, a law, without the concurrence of the other. *Provided*, that all revenue bills shall originate in the house of representatives—but the senate may propose or concur with amendments, as on other bills. Neither house, during the session of the general assem-

bly, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting; and in case of disagreement between the two houses, with respect to adjournment, the governor may adjourn them to such time as he shall think proper.

ART. IV. The senate shall be composed of thirty senators, to be of the freemen of the county for which they are elected, respectively, who are thirty years of age, or upwards, and to be annually elected by the freemen of each county respectively. Each county shall be entitled to one senator at least, and the remainder of the senators shall be apportioned to the several counties according to their population, as the same was ascertained by the last census, taken under the authority of the United States—regard being always had, in such apportionment, to the counties having the greater fraction. But the several counties shall, until after the next census of the United States, be entitled to elect and have their senators in the following proportion, to wit:

Bennington county, two; Windham county, three; Rutland county, three; Windsor county, four; Addison county, three; Orange county, three; Washington county, two; Chittenden county, two; Caledonia county, two; Franklin county, three; Orleans county, one; Essex county, one; Grand Isle county, one.

The legislature shall make a new apportionment of the senators, to the several counties, after the taking of each census of the United States, or census taken for the purpose of such apportionment, by order of the government of this state, always regarding the above provisions in this article.

ART. V. The freemen of the several towns in each county shall annually give their votes for the senators apportioned to each county, at the same time and under the same regulations as are now provided for the election of councillors. And the person or persons, equal in number to the number of senators apportioned to each county, having the greatest number of legal votes in such county respectively, shall be the senator or senators of such county. At every election of senators, after the votes shall have been taken, the con-

stable or presiding officer, assisted by the selectmen and civil authority present, shall sort and count the said votes, and make two lists of the names of each person, with the number of votes given for each annexed to his name, a record of which shall be made in the town clerk's office, and shall seal up said lists, separately, and write on each the name of the town, and these words, "Votes for senator," or "Votes for senators," as the case may be, one of which lists shall be delivered by the presiding officer to the representative of said town (if any,) and if none be chosen, to the representative of an adjoining town, to be transmitted to the president of the senate; the other list the said presiding officer shall, within ten days, deliver to the clerk of the county court for the same county, and the clerk of each county court respectively, or in case of his absence or disability, the sheriff of such county, or in case of the absence or disability of both, the high bailiff of such county, on the 10th day after such election, shall publicly open, sort, and count said votes, and make a record of the same in the office of the clerk of such county court, a copy of which he shall transmit to the senate; and shall also, within ten days thereafter, transmit to the person or persons elected, a certificate of his or their election. *Provided, however,* that the general assembly shall have power to regulate by law the mode of balloting for senators within the several counties, and to prescribe the means and the manner by which the result of the balloting shall be ascertained, and through which the senators chosen shall be certified of their election, and for filling all vacancies in the senate, which shall happen by death, resignation or otherwise. But they shall not have power to apportion the senators to the several counties, otherwise than according to the population thereof, agreeably to the provisions herein before ordained.

ART. VI. The senate shall have the like power to decide on the election and qualifications of, and to expel any of its members, make its own rules, and appoint its own officers, as are incident to, or are possessed by, the house of representatives. A majority shall constitute a quorum. The lieutenant-governor shall be president of the senate, except

when he shall exercise the office of governor, or when his office shall be vacant, or in his absence; in which cases the senate shall appoint one of its own members to be president of the senate *pro tempore*. And the president of the senate shall have a casting vote, but no other.

ART. VII. The senate shall have the sole power of trying and deciding upon all impeachments; when sitting for that purpose they shall be on oath or affirmation, and no person shall be convicted, without the concurrence of two-thirds of the members present. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold or enjoy any office of honor, or profit, or trust, under this state. But the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law.

ART. VIII. The supreme executive power of the state shall be exercised by the governor, or in case of his absence or disability, by the lieutenant-governor; who shall have all the powers and perform all the duties vested in, and enjoined upon, the governor and council, by the eleventh and twenty-seventh sections of the second chapter [part the second] of the constitution as at present established, excepting that he shall not sit as a judge in case of impeachment, nor grant a reprieve, or pardon, in any such case, nor shall he command the forces of the state in person, in time of war or insurrection, unless by the advice and consent of the senate, and no longer than they shall approve thereof. The governor may have a secretary of civil and military affairs, to be by him appointed during pleasure, whose services he may at all times command; and for whose compensation provision shall be made by law.

ART. IX. The votes for governor, lieutenant-governor, and treasurer of the state, shall be sorted and counted, and the result declared by a committee appointed by the senate and house of representatives. If, at any time, there shall be no election by the freemen for governor, lieutenant-governor, or treasurer of the state, the senate and house of representatives shall, by a joint ballot, elect to fill the office, not filled by the freemen as aforesaid, one of the three candidates for

such office (if there be so many) for whom the greatest number of votes shall have been returned.

ART. X. The secretary of state, and all officers whose elections are not otherwise provided for, and who, under the existing provisions of the constitution, are elected by the council and house of representatives, shall hereafter be elected by the senate and house of representatives, in joint assembly, at which the presiding officer of the senate shall preside; and such presiding officer, in such joint assembly, shall have a casting vote, and no other.

ART. XI. Every bill which shall have passed the senate and house of representatives, shall, before it become a law, be presented to the governor; if he approve, he shall sign it; if not, he shall return it, with his objections in writing, to the house in which it shall have originated; which shall proceed to reconsider it. If, upon such reconsideration, a majority of the house shall pass the bill, it shall, together with the objections, be sent to the other house, by which it shall likewise be reconsidered, and if approved by a majority of that house, it shall become a law. But in all such cases, the votes of both houses shall be taken by yeas and nays, and the names of the persons voting for or against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor, as aforesaid, within five days (Sundays excepted) after it shall have been presented to him, the same shall become a law, in like manner as if he had signed it; unless the two houses, by their adjournment within three days after the presentment of such bill, shall prevent its return; in which case it shall not become a law.

ART. XII. The writ of habeas corpus shall, in no case, be suspended. It shall be a writ issuable of right; and the general assembly shall make provision to make it a speedy and effectual remedy in all cases proper therefor.

ART. XIII. Such parts and provisions only of the constitution of this state, established by convention on the 9th day of July, one thousand seven hundred and ninety-three, as are altered or superseded by any of the foregoing amendments, or are repugnant thereto, shall hereafter cease to have effect.

SALARIES

OF OFFICERS OF THE GOVERNMENT OF THE UNITED STATES.

President,	$25,000
Vice President,	5,000
Department of State.	
Secretary of state,	6,000
Chief clerk,	2,000
Commissioner of patents,	3,000
Chief clerk,	1,700
About 20 other clerks and assistants, from $1,000 to $1,600.	
Treasury Department.	
Secretary of the Treasury,	6,000
Chief clerk,	2,000
1st comptroller,	3,500
Chief clerk,	1,700
2d comptroller, 5 auditors, a treasurer, and a register, each,	3,000
A chief clerk of each,	1,700
A solicitor,	3,500
Com. of the land office,	3,000
A recorder, do.,	2,000
3 clerks, do., each	1,800
War Department.	
Secretary of war,	6,000
Chief clerk,	2,000
Com. of Indian affairs,	3,000
Com. of pensions,	2,500
Surgeon general,	2,500
Navy Department.	
Secretary of the navy,	6,000
Chief clerk,	$2,000
Sup't. of coast survey,	6,000
Post Office Department.	
Postmaster general,	6,000
2 assistants, each	2,500
Chief cl'k of department,	2,000
Auditor of P. O. treasury,	3,000
Auditor's chief clerk,	2,000
Supreme Court.	
Chief justice,	5,000
8 associate justices, each	4,500
Attorney-general,	4,000
A reporter,	1,000
District Court Judges.	
There are 35 district judges, whose salaries are from $1,000 to $3,500.	
Officers of the Mints.	
At the mint at Philadelphia, a director,	3,500
A treasurer, a chief coiner, an assayer, a melter and refiner, and an engraver, each	2,000
An assistant assayer,	1,300
At New Orleans, a sup't.,	2,500
4 other officers, each	2,000
At Dahlonega, Ga., a sup't,	2,000
Assayer and coiner, each	1,500
At Charlotte, N. C., a sup't,	2,000
Assayer and coiner, each	1,500

SALARIES OF OFFICERS OF THE GOVERNMENT OF VERMONT.

Governor,	$750
Lieutenant-governor and pres. of senate, $4 a day.	
Treasurer,	500
Secretary of state,	275
Sec. civil & Military affairs,	200
Auditor of accounts,	150
Secretary of the senate,	250
Clerk of the house,	400
State librarian,	100
Sup't. of state prison,	$500
Adj't. and inspector gen.,	150
Chaplain of state prison,	400
Commissioner of the insane.	
Members of the Legislature, $1 50 a day during session.	
Supreme Court.	
Chief justice and four associate judges, each	1,375
Reporter,	450

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